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ARTIFICIAL HUMAN INSEMINATION

*The Report of a Commission appointed by
His Grace the Archbishop of Canterbury*



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ARTIFICIAL HUMAN INSEMINATION

THE REPORT OF A COMMISSION
APPOINTED BY HIS GRACE
THE ARCHBISHOP OF CANTERBURY

LONDON
S·P·C·K
1948

ARTIFICIAL
HUMAN
INSEMINATION

THE RIGHT OF A COMMISSION
AND THE RIGHT OF THE STATE
THE ABOLITION OF CAPITALISM

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APPOINTMENT AND TERMS OF REFERENCE

The Commission was appointed by His Grace the Archbishop of Canterbury in December, 1945, with the following Terms of Reference:

“To consider the practice of human artificial insemination with special reference to its theological, moral, social, psychological, and legal implications, and to report to the Archbishop.”

MEMBERSHIP

The Right Reverend and Right Honourable J. W. C. Wand, D.D.,
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The Honourable Sir H. B. Vaisey, D.C.L.

The Right Honourable H. U. Willink, M.C., K.C.

The Reverend G. L. Russell, M.B., Ch.B. (*Secretary*)

P R E F A C E

THE growth of natural science and of technical skill has vastly increased the extent to which man can control natural processes and direct them to his own self-chosen ends. But the fact that man can now do certain things which before he could not do in no way settles the question whether he ought to do them. Man is always only too ready to say "What I can do, I may do", without further enquiry. The discovery of the atom bomb has gone a long way to convince him that in fact further enquiry is most necessary. Man's use of his powers must be subordinated to a moral law of some kind. The Christian knows that it must be obedient to the moral law of God. But some of man's recently acquired powers raise so many complex issues and often for the first time in man's history, that expert thought is necessary to discover their precise significance.

The artificial insemination of human beings raises a series of difficult problems, theological, ethical, sociological, psychological, and legal. Though the practice of it is only on a very small scale in this country, it has begun and from time to time public attention is drawn to it. It seemed to me to be most desirable that at this stage a careful enquiry should be made into the technical questions involved, and accordingly I appointed the committee of experts whose report is now published. It will at once be seen that the report is not addressed to the general public, nor is it to be taken as a Church document. Doctors, lawyers, theologians have examined the evidence each from the point of view of their own technical approach; and the report is meant to assist those who in their several professions have to consider the implications of this practice. At the same time it is noteworthy that there is almost unanimous agreement on the findings even though not all members of the Committee would use the same arguments in support of them. For myself, I should have no hesitation in subscribing to them.

GEOFFREY CANTUAR:

Lambeth Palace.

February 1948.

HISTORY OF ARTIFICIAL INSEMINATION

Definition.

Artificial insemination may be defined as the deposition of semen in the vagina, cervical canal, or uterus by means of instruments. As applied to human beings, it is further described as *homologous* (artificial insemination, husband: A.I.H.), or *heterologous* (artificial insemination, donor: A.I.D.). In the former, the semen of the husband is used; in the latter, that of an unrelated fertile donor. Mixed semen (husband's and donor's; or from a number of donors) has also been employed.

Homologous insemination (A.I.H.) is used:

- (a) When intravaginal coitus between two fertile individuals is impossible—e.g. on account of impotence,¹ hypospadias (malformation of the male organ), intractable vaginismus (spasm of the vagina), wounds, tumours, or obesity.
- (b) Where there is failure to ejaculate during intercourse.
- (c) In cases of incurable dyspareunia (painful coitus).
- (d) When the husband's semen is sub-normal, or fecund only when ejaculated during masturbation.
- (e) In certain cases of persistent sterility in the marriage for which no cause can be found.

Heterologous insemination (A.I.D.) has three principal uses:

- (a) In cases of male sterility.
- (b) In cases of hereditary disease or defect in the husband.
- (c) In cases where, though neither of these conditions is present, the paternity of a man endowed with outstanding qualities is desired.

¹ A possible alternative to A.I.H. in cases of impotence has been described by Dr. Joseph Loewenstein, who has devised a *coitus training apparatus*, the use of which has been attended by successful penetration and impregnation in a number of instances where other treatment had failed. cf. J. Loewenstein: *The Treatment of Impotence with special reference to Mechanotherapy* (Hamish Hamilton 1947). The Commission's attention was drawn to this procedure only after its Report had been completed.

(a) *In Male Sterility.*

Recent research has demonstrated the large proportion of sterile marriages in which the husband's infecundity is a contributory factor. Defective spermatogenesis has been detected in up to 30% of such cases, though in about half of these the cause of the defect is unknown. Sterility is also caused by fibrosis of the testicle, or obstruction of the seminal passages (both commonly as sequels of infection).

(b) *In Hereditary Disease.*

A.I.D. is sometimes employed where the husband suffers from, or is capable of transmitting, inheritable disease or defect. Here the motive for resort to artificial insemination is a eugenic one; but the result is identical with that of (a) above—viz. a wanted child of selected paternity is born to a married woman childless by her husband.

(c) *For Eugenic Ends.*

The eugenic argument has been carried further.

Dr. Julian Huxley has written:² "The perfection of birth-control technique has made the separation [between 'love' and 'reproduction'] more effective; and the still more recent technique of artificial insemination has opened up new horizons, by making it possible to provide different objects for the two functions. It is now open to man and woman to consummate the sexual function with those they love, but to fulfil the reproductive function with those whom on perhaps quite other grounds they admire. This consequence is the opportunity of eugenics. But the opportunity cannot yet be grasped. It is first necessary to overcome the bitter opposition to it on dogmatic theological and moral grounds, and the widespread popular shrinking from it, based on vague but powerful feelings, on the ground that it is unnatural unless we alter the social framework of law and ideas so as to make possible the divorce between sex and reproduction, or if you prefer it between the individual and the social sides of our sexual functions, our efforts at evolutionary improvement will remain mere tinkering"

² *The Uniqueness of Man*, pp. 78, 79.

The race, it is suggested, would benefit if married couples of average or sub-average endowment were prepared, after having one or two children of "their own," to admit into their families a third and fourth child conceived as a result of A.I.D.; the donor in each case being selected for exceptional qualities capable of transmission to his offspring. We shall refer later in our Report to these eugenic considerations.

For the sake of completeness, it is necessary to mention a fourth class of persons for which artificial insemination with donated semen has significance, viz., single women who, though unmarried, desire to bear children. We have not considered that our terms of reference were designed to include this question, and we have not, therefore, dealt with it in detail; but that it is not simply of academic interest is demonstrated by the recent proposal to inaugurate in London a League of Bachelor Mothers, the avowed objects of which are to promote and encourage unmarried motherhood.

Technique.

A.I.H. When homologous insemination is to be carried out semen is withdrawn from the vagina into a special syringe and at once introduced into the cervical canal of the uterus. This, or similar attempts to assist the passage into the womb of semen ejaculated in the course of normal intercourse, or the attempt at it, is known as "assisted insemination." Alternatively, the husband produces semen either by *coitus interruptus* or by masturbation. It is possible to obtain semen by testicular puncture, but this is not a method which has medical recommendation.

Insemination is normally performed during the ovulatory phase of the menstrual cycle (i.e. at the time when an egg-cell is released from the ovary), which is approximately between the eleventh and fifteenth days of a 28-day cycle, and is ascertained by reference to the vaginal or rectal temperature. The procedure is commonly repeated several times before impregnation occurs.

A.I.D. Semen is collected from the donor by masturbation or from the vaginal pool after normal intercourse with his wife. Donors are said to be selected with care, and with regard to their health, intelligence, family history, character, physical qualities and fertility. The donor's blood group should be identical with that of one of the other parties (husband and wife); and he should be of the same racial stock and emotional type as the husband. In

Great Britain it is the practice to select as donors married men with at least two healthy children of their own. The authors of an article which appeared in the *British Medical Journal*, January 13, 1945, make the following points in relation to the choice of suitable donors:

"So far as we know, no organized collection of semen for donation has ever been established, and the provision of semen is therefore entirely in the physician's hands. This inevitably involves considerable difficulty in obtaining suitable material, but has the advantage that the physician knows the donor individually. Certain facile assumptions suggested by purely biological considerations must be refuted. Thus the husband's brother might be regarded as the first choice because of genotypical resemblance; but experience shows that this choice is usually incompatible with secrecy, and that it is conducive to emotional disturbances involving both husband and wife. In fact, the prospective parents should never be aware of the identity of the donor. We have come to this conclusion as a result of disturbing observations in cases where the donor (though biologically approved by us) was chosen by the couple. It would seem that the responsible donor and the maternal woman are emotionally too deeply involved in procreation to regard their relationship with detachment. Now we carry anonymity to the point where the donor is never described to the patient save in most general terms which exclude identification; nor does the donor receive any specific information concerning the recipients."

The number of donors required is naturally quite small; for while a specimen of semen is not used for more than a few hours after emission, up to twenty inseminations can be performed during this period. "In theory the number of possible conceptions from one specimen is very much higher, for we have satisfied ourselves that a single insemination with 0.01 c. cm. of semen may suffice to procure pregnancy. It follows that a fecund donor submitting two specimens weekly could, with ideal conditions, produce 400 children weekly (that is, about 20,000 annually)."³

³ Barton, M., Walker, K., and Wiesner, B. P., *Brit. Med. Jour.*, Jan. 13th, 1945, vol. 1, p. 40.

*History of Artificial Insemination.*⁴

There is a legend that artificial insemination was employed by the Arabs in the fourteenth century. Anything which interfered with the speed and stamina of their remarkable horses might result in the failure of a sortie or defeat in battle. This was recognized by their enemies, who attempted the artificial insemination of the brood mares with semen from a stallion of inferior physique.

In 1780 a Leyden physician, Jan Swammerdam, attempted to fertilize the eggs of fish by artificial means. He failed; but twenty years later Jacobi successfully performed the experiment. Lazario Spallanzoni fertilized an insect, an amphibian, and finally a bitch. In this last case the animal was isolated in the Abbé's own quarters for 62 days following intravaginal injection of semen, and then gave birth to three puppies all resembling the sire.

Ten years later, the celebrated John Hunter succeeded in inseminating, by artificial means, the wife of a linen draper in the Strand. The semen was collected from the husband who suffered from hypospadias, and being introduced into the wife's vaginal canal initiated a normal pregnancy. In America, the first successful case of human insemination was reported by Marion Sims in 1866.

It is, of course, in the sphere of animal husbandry that the application of artificial insemination has been attended with the most spectacular results. The Russian physiologist, Ivanoff, published in 1907 a monograph which laid down the principles on which later practice has been based. The advantages of this method of stock-breeding are two-fold: known and selected strains can be united under controlled conditions; and a multiplication of flocks and herds, very much more rapid than would occur naturally, is made possible. It has been stated, for example, that in the breeding season (in Russia) 15,000 ewes have been inseminated by a single ram, and 1,000 cows by one bull. In the U.S.A. and in this country the method is extensively used, and research continues. The Agriculture (Miscellaneous Provisions) Act of 1943 (Section 17) provided for the control by the Minister of Agriculture and Fisheries, or the Secretary of State for Scotland as the case may be, of the practice of artificial insemination of live-stock in general, and in particular of the distribution and sale of

⁴ In the section following we are indebted to an article by Dr. Robert Forbes which appeared in the *Medico-Legal and Criminological Review*. July-September, 1944 (Vol. 12, Part 3, pp. 139-153).

semen. In an Explanatory Memorandum, issued by the Ministry in December 1945, it is stated that

“The chief advantages claimed for artificial insemination over natural mating are that the use of a superior sire can be extended over a large number of females and placed within reach of small farmers who could not otherwise afford the use of such an animal; and that artificial insemination provides a safeguard against the spread of certain diseases communicable by the bull. On the other hand, the possibilities of harm if the practice were inadequately controlled or if developments took place on wrong lines, are considerable.”

The Artificial Insemination (Cattle) (England and Wales) Regulations, 1943, made by the Minister under powers conferred on him by the above-mentioned Act, were designed to ensure the proper development of the practice and to prevent damage to the livestock industry by improper commercial exploitation of artificial insemination. There are corresponding Regulations in force in Scotland.

The Agriculture (Artificial Insemination) Act, 1946, provides for the establishment of research centres and for financial aid for a limited period to authorized bodies (such as the Milk Marketing Boards, farmers' co-operative societies, and cattle breeding societies) in respect of the establishment of centres providing services of artificial insemination for cattle.

Human Artificial Insemination.

It was perhaps not to be expected that, while such remarkable results were being obtained from the application of artificial breeding methods to livestock, so novel and potent an instrument would not be directed to the solution of some of the most grievous human problems. Dr. Marie Stopes claims to have popularized the notion of human artificial insemination as early as 1918, and in 1928, in the U.S.A., Schorohowa described 50 cases with 22 successes. More recently Cary, Schultze, and Seymour and Kerner have reported series of cases—the last two asserting that by 1941 9,580 American women had been impregnated by artificial means. These figures, though trenchantly criticized in the *Journal of Obstetrics and Gynaecology* (June 1943) indicate the extent to which this technique is already practised in the United States.

In Great Britain artificial insemination of married women has been familiar to a limited circle for at least 25 years. Its adoption was, not unnaturally, connected with the work of clinics which specialize in the treatment of sterility. At one such clinic (founded by the Exeter and District Women's Welfare Association) the proportion of patients who attended because they wished, and had failed, to have children increased from 1% of the total in 1935 to more than 25% in 1944. In a series of several hundreds of sterile couples, rather more than three-fifths of the husbands submitted specimens of semen for examination; and approximately one-seventh of this number have shown, in spite of treatment, complete azoospermia (absence of sperm cells) or sperm counts consistently below 5,000,000 per cc. (i.e. inability to procreate). Less than one-quarter of this number (i.e. of the one-seventh) asked for artificial insemination with donated semen; and of this small number of cases in which A.I.D. was performed, pregnancy resulted in half. Of the total number of cases in which advice was sought because of involuntary sterility, A.I.D. has been used in just over 1%.

Dr. Mary Barton, Mr. Kenneth Walker, and Dr. B. P. Wiesner (in the *British Medical Journal* article already referred to) review two series of cases. In thirty (the first series), A.I.H. was carried out because of low invasive power of the semen, and other complicating factors. Nine conceptions occurred, four of which terminated in miscarriage, and four in a live birth (one pregnancy had not reached term at the time of writing). In 21 cases no conception was recorded with certainty. In the second series of 15 successive cases (A.I.D.) for which the same donor was used, pregnancy occurred in ten, and terminated successfully in eight. The infants in every case show no abnormality and are stated to be making good progress.

With regard to donors, the authors of the article state that "while a small panel of donors can serve the aim proposed, it seems desirable to limit the number of children any one donor should be allowed to have, lest the risk of marriage between sibs not known to each other should assume dangerous proportions. For this reason we have set an arbitrary limit of 100 children for each donor—not yet attained by any one donor."

Dr. Margaret Jackson has reported to us 34 cases, of which 17 were successfully inseminated: thirteen had had live births, one a still birth, one a miscarriage; two were still pregnant. She has a

panel of some twenty donors, one of whom is the father of seven A.I.D. children. The largest number of inseminations of one woman before a pregnancy occurred was 25, over a period of more than two years. Dr. Jackson affirms that the results of successful insemination, measured in terms of the happiness of husband and wife, have exceeded all her expectations.

THE CASE FOR A.I.D.

We turn now to the arguments put forward in defence and justification of artificial insemination of a wife with donated semen. (Consideration of A.I.H. is deferred, as it does not, in our view, raise moral problems of the kind inherent in A.I.D.) The questions that arise are of importance for the psychologist, the lawyer, the sociologist, and the moral theologian. Some of them we shall attempt to answer in later sections of our Report. Upon others it is impossible, at this stage, to express definite opinions, since the evidence upon which these must depend is not yet available.

We have read and heard with much interest the reports of a number of doctors with first-hand knowledge of artificial insemination; and have had opportunities of putting questions to them. And we desire to record our conviction that, in every case, they are persons of the utmost sincerity, impelled by a genuine compassion for those of their patients who are victims of sterility, and by a deep desire to help them.

Inevitably the first experiments in artificial insemination were performed in cases in which the husband had been unsuccessfully treated for sterility. It was apparent to the doctors concerned that many of these women were suffering great emotional distress. They had been told that their husbands were unable to give them children; and that no further treatment would be of any avail. A number of couples, faced with this situation, adopted children. For others this did not commend itself as a solution to their problem. Some women are conscious of an almost overwhelming desire to *bear* a child—not simply to rear one. In a few cases frustration of this desire led to a grave mental condition, bordering on breakdown. In others the marriage was in obvious jeopardy on account of the resentment or distress of one or both of the partners. It is possible that the first suggestion of artificial insemination

came from some of these patients, who had seen reports of successful cases in America. After legal advice had been taken, and consultations held on the ethical issues involved, it was decided to offer this service to those who wished to use it.

Two matters early called for decision. If the donor's semen could be obtained only by masturbation, that would give rise to disquiet in some minds and to positive objection in others. In fact it proved not necessary (though it is often convenient) to secure the specimen by this means. It is the practice, in this country, to make use as donors only of married men; and the seminal fluid can be recovered from the wife's vagina after coitus with her husband. It is apparently not unknown for the donor's wife to feel that in this way she as well as her husband may contribute to the relief of a sterile couple.

The second, and still unsettled, question concerns the secrecy by which all parties to the transaction hold themselves bound. It is not (we are informed) positively required of a patient that in no circumstances at all will she, or her husband, divulge to the child the unusual mode of his conception; but the risks of so doing are emphasized. To this most important consideration we shall return. It is mentioned here because some of the doctors with whom we discussed the matter expressed concern and some hesitation about it.

While artificial insemination (with a donor's semen) is being carried out, the patient is encouraged to continue regular cohabitation with her husband, since (unless he is quite incapable of coitus) there can usually be no more than presumptive evidence—however strong—that he is not in fact as well as in name the father of a child conceived within this period. Modern methods of testing blood groups, however, might be used to prove that the husband could *not* have been the child's father.

From published records it would appear that the majority of the children known to have been conceived in this country as the result of A.I.D. are still young, although there are probably isolated instances in which maturity has been attained. In consequence, the question of possible psychological repercussions later on in the life of the marriage and family, while of the greatest interest and importance, can at this stage be met with no more than conjectural answers. We may foresee manifold occasions of perplexity and distress—for the child, his mother, and her husband

(to mention no others concerned). On the other hand, there is eloquent testimony from a number of married couples to their joy in the new baby and the increased happiness of their marriage. "From our own experience" (writes one wife) "we can think of nothing more heartbreaking than for a young couple to enter into marriage, fully intending to have a family, only to find year after year passing with no babies forthcoming. We knew nothing of artificial insemination beyond having heard vaguely about it. After much thought and discussion from all angles of the subject, we decided to make the venture and never, either during my pregnancy or at any time since, have we felt that we made a wrong decision The great fact in favour of artificial insemination is that it enables the wife to realize the natural fulfilment of her desires in a perfectly normal way without any one else, beyond the doctor, having any idea that anything unusual is taking place A tremendous number of people are willing to face the risky results of adoption in which the child is of unknown character and possibilities to both new parents, so why not take the much more satisfying risk of bearing a child which one *knows* to be at least 50% of oneself?" To quote from another patient's letter: "We have both taken what I think is a sane and civilized view of my husband's sterility, but even so there are times when he gets depressed and feels 'no good'. Although, by making use of artificial insemination, we should be consciously misleading the public, I feel and hope that the fact that I gave birth to a child would help him to overcome, as far as possible, this awful feeling." "After four years of constant searching and enquiries" (writes another) "I am now being given the chance of being a mother. What this means can only be appreciated by anyone who has been barred from having children We both feel that having a child which will be half our own and both of us knowing that we are faithful to each other, will be an infinitely better plan than adoption We are both looking forward to this child if we are fortunate enough to have one. We will find it easier to love and understand him knowing that he really belongs to us—also that he has been given to us by such an impersonal method with no embarrassment or shame caused by his conception"; and her husband adds: "I think it is much less likely that the husband will suffer from an inferiority complex if they have a family by this means rather than no children at all, when both would probably become bitter and resentful."

(The above extracts are taken from letters addressed to Dr. Margaret Jackson, and are published with her permission.)

Dr. C. P. Blacker, Secretary of the Eugenics Society, makes the following comments:

"In every case of which I have first hand knowledge, the alternative of adopting a child was carefully considered. But artificial insemination was desired by both partners on the ground that the woman preferred to have a child of her own by a selected donor than that the couple should adopt a child of unknown parentage. In every case, the step was desired by the husband no less than by the wife. Indeed, the former sometimes hoped that the stability of the marriage would be increased by an act which might be construed (but not necessarily felt) as one of self-abnegation.

"I have personal knowledge of about eight cases only . . . [in two of which] artificial insemination was sought because of hereditary abnormalities in the male partner. It was in each of these two cases the intention of the mother and of her husband to tell the child (one is a boy, the other a girl) the true facts, if, on growing up, difficulties about marriage arose from the supposed hereditary abnormalities on the legal 'father's' side.

"It happens that all the cases of artificial insemination of which I have knowledge have hitherto proved conspicuously successful. The children have shown mental qualities above the average, and are as attached to their supposed fathers as to their mothers. Indeed, the supposed or 'legal' fathers feel towards the children (they say) more warmly than step-fathers in general would feel towards their step-children because here the child believes the legal father to be the real father."

In this country no payment whatever is made to donors—at least in the great majority of cases. They are said to regard their services as akin to those of blood-donors. We understand that some donors evince a not unnatural interest in their own offspring, and a concern for their welfare. It is emphasized, by those who know them, that the couples who desire A.I.D. are of more than the average intelligence, thoughtfulness, and responsibility. In each case the wife has manifestly not considered, or has rejected, the possibility of taking a lover in the hope of having a child. The husband is frequently oppressed by a sense of inferiority, sometimes by a false sense of guilt (though it may be noted in passing

that in some cases at least—where his sterility is possibly the result of a past venereal infection, still more where it is demonstrably so—it would be absurd to describe as “false” any guilt-feelings of which he may be conscious). He is devoted to his wife and longs to see her happy. She has a passionate desire for children; and because he is sterile she can never (he believes) be a mother. He is bitterly disappointed and feels that he has failed his wife. In the experience of most of the doctors whose evidence we have heard, it is usually the husband and not the wife who first comes to enquire about artificial insemination, and is eager that it should be tried; and he is as delighted as she when it is successfully carried out.

It has been asked why those whose marriage is infertile should turn to artificial insemination as a remedy when adoption offers most of the advantages secured by A.I.D. and is free from the objections which can be urged against it. The answer appears to be three-fold. (i) The actual experience of maternity—“having a child of my own”—is for most women bound up with their strongest emotions and, for some, of quite supreme importance. How far the desire for motherhood, when it reaches this pitch of intensity, may be (from the psychologist’s point of view) “pathological” and (from the theologian’s) “inordinate,” we shall consider later. But that it is, in most if not all of those who submit to artificial insemination, the dominant motive, is established beyond all doubt. (ii) Many couples hesitate to adopt children of whose antecedents and parentage they can learn but little, fearing that in later years they may have to deal with inherited vicious qualities and other defects in those for whom they have made themselves so largely responsible. Whether such apprehension is well or ill grounded is, in their case, irrelevant: they are less encouraged by the happy results of adoption to be seen on all hands than deterred by a fear that it may, for themselves, turn out badly. In A.I.D., on the other hand, the child’s parents are known; not, indeed, both of them; but his mother to all the world, and his father to a trusted doctor who has exercised the most scrupulous care in his choice of a donor. This seems to many couples a quite outstanding merit of A.I.D. (iii) Although the birth-rate in this country has recently risen, many experts believe that this will prove to be no more than a transitory check to the steady downward movement of the past 75 years, which will re-assert itself quite soon. The illegitimate birth-rate (which has already declined

sharply since the end of the war) tends, in normal times, to follow the curve of the legitimate rate. On the other hand, the incidence of sterility appears to be increasing. It is said that almost one marriage in ten is involuntarily sterile. These two trends represent converging lines which (if they are continued) must reach a point at which there will be fewer children available for adoption than would-be adoptive parents. For this reason, if for no other, the pressure for more extensive facilities for artificial insemination is likely to increase.

PSYCHOLOGICAL ASPECTS OF ARTIFICIAL INSEMINATION

A study of the psychological aspects of artificial insemination must begin with some account of the attitudes which may be adopted, by those concerned, towards involuntary sterility in marriage. Husband and wife, being ignorant of measures designed to help them, may accept their childlessness as inevitable. Many couples have done so, and some have been drawn more closely together by their common grief. On the other hand, infertility may lead to much unhappiness, and to the increasing alienation of husband and wife. A factor of great importance from the psychological point of view is the degree to which the situation is genuinely accepted by both of them. When it is so accepted, the desire for parenthood may be directed into other channels and find scope in creative activities which allow, and indeed require, a real "reproduction of self" by those who take part in them.

The number of sterile couples who successfully adapt themselves to their situation is undoubtedly high; but we have naturally been concerned, in the main, with evidence drawn from those who have failed to do so. Unfulfilled parental (and especially, it would seem, maternal) instinct sometimes becomes a negative and destructive force in the marriage; and the wife's frustration may express itself as resentment against her husband. In many women the desire for children is a primary motive for marriage, although they may not be fully aware of it; and a wife may imagine herself cheated by a husband found to be infertile.

The husband is frequently oppressed by one or the other of two opposite and indeed contradictory emotions. He may, knowing his defect to be the cause of his wife's childlessness, come to regard himself as a guilty man, and his wife's resentment as merited. On the other hand, he may smart from a sense of injustice. He may not be responsible for the deficiency in his reproductive powers; yet he feels that his wife blames him. She may even (so he may imagine) suspect him of having contracted, and concealed from her, a venereal disease which has caused his sterility. These suspicions and resentments may not be acknowledged; they may not be conscious at all. There is special danger for the relationship if the parties remain unaware of hate and guilt which lie hidden within the mind. In that event, while on the conscious level every

endeavour is made to reach adjustment, things go from bad to worse.

It is very desirable that married couples, and those whose advice they may ask, should be aware that sterility is not necessarily a permanent condition. The factors likely to produce it, and the measures designed to overcome it, should be more widely known. It must, however, be recognized that husband and wife (or one of them), knowing that remedies are available, may yet be unwilling to employ them. The wife, for instance, may be reluctant to invite a third party, even a trusted doctor, to intervene in the most intimate relationship and activity of marriage. The husband may shrink from the act of masturbation if that is necessary in order that seminological tests may be carried out. Even when no such scruples and hesitations stand in the way of treatment, all the devices known to promote fertility may be, and frequently are, quite unavailing; and the couple may be advised, or themselves propose, to have recourse to artificial insemination. Homologous and heterologous insemination raise such very different psychological issues that each must be dealt with separately.

ARTIFICIAL INSEMINATION (HUSBAND)

The motives of husband and wife in seeking A.I.H. are, it will be conceded, primarily their private concern. If the advice of a doctor is sought he should, as a first step, look for the cause of the failure to conceive and (if he thinks it remediable) recommend psychological and/or physical treatment. If the treatment is unsuccessful or unobtainable, and provided that the semen of the husband and the physical state of the wife are such that conception seems probable, A.I.H. might be considered when one or more of the following conditions are present:

A permanent physical disability in the husband which renders coitus impossible.

Impotence of psychological origin on the part of the husband.
Vaginismus (vaginal spasm).

In each of these three conditions psychological factors are either causative or concomitant and require more detailed review.

A husband physically incapable of coitus, and so inescapably aware that his wife's childlessness is due to defect on his side, may still have normal sexual and parental desires. Such a man may compensate for his bodily inferiority by ill-balanced psychological

development: he can hardly suffer injury to so vital a function without consequences of some kind. During the war many young couples decided to postpone parenthood until it was over. Should they now find themselves unable to have children because of an injury to the husband's sexual organs, they are likely to suffer very great distress. If the marriage is in other respects a happy one, both husband and wife might welcome a proposal to employ A.I.H. The procedure may by itself do much to restore the husband's self-esteem and encourage the hope of motherhood in the wife. If a child is born, that will immensely add to their happiness. If not, the burden of childlessness will be more equally shared and this may well strengthen the bonds between them.

Impotence is in the great majority of cases a neurotic condition arising from mental conflict. It appears either as an isolated symptom or as one of many in neurosis. It may be transitory, intermittent, or permanent. It is sometimes selective: a man may be potent with one woman and impotent with another. When it is intermittent it may damage the marital relationship by introducing conscious anxiety into the act of coitus—an anxiety felt by both partners. Each attempt at intercourse becomes a self-conscious effort rather than an expression of mutual affection. When this situation persists, it is certain to have unfortunate consequences for the marriage. There may develop, in husband or wife, an incapacitating neurosis superficially unrelated to the sexual failure; or they may live in a cloud of ill-defined resentment and growing hostility which may lead in the end to separation or nullity proceedings. One or both of the parties may seek consolation with a lover. Even if these extreme results do not occur, the marriage remains incomplete.

The absence, in either partner, of emotional preparedness for parenthood, indicating the persistence of infantile attitudes, may well be an important factor in the sexual failure. A concentration of neurotic disorders over and above the impotence will give rise to problems in the marriage which are not likely to be solved by recourse to artificial insemination. If, on the other hand, the husband's incapacity to perform the sexual act is the only significant obstacle to their union, and he no less than his wife genuinely desires to beget a child, both of them may benefit from the use of A.I.H. The conjugal act plays, *in relation to parenthood*, a comparatively minor part; and its importance tends to diminish with the growth of parental cares, duties, and joys. Even

when it has never occurred—and is therefore invested with the special significance of a thing much desired yet unattainable—their concern for it will yield first place in the couple's interest to the child, if one is born as a sequel to A.I.H. The joys and satisfactions which surround the advent of a baby, while of peculiar moment for the mother, are shared by the father too. The child is no less his than hers; and that is of paramount importance for the well-being of both.

Vaginismus in the wife may be due simply to ignorance of sexual matters, or to profound distaste for intercourse. It may also be deeply rooted in psychological conflict. Its intensity varies. Coitus, though unsatisfactory, may not be impossible. In extreme cases any sexual approach, even on the part of a much loved husband, gives rise to the utmost abhorrence. The onus of failure tends to fall on the wife, as in impotence it falls on the husband. It is important, however, to remember that either condition may be activated by traits of behaviour or physical features in the partner, or by the partner's response to sexual contact. The responsibility may thus be a joint one; and both husband and wife require help. This is of special importance in vaginismus if the husband believes himself responsible: he is humiliated by the thought that he has failed to make his wife "love" him. His sexual pride, an important male characteristic, is deeply injured.

Involuntary sterility in marriage presents, whatever its cause, a complex psychological problem which varies with every case. The doctor or other adviser must weigh the probable consequences of permanent childlessness against those of parenthood by means of A.I.H. In doing so, he will reflect that the knowledge that one possesses the power to procreate, still more the actual demonstration of that power, has a significance for a married couple more lasting and fundamental than any attached to the procedure which led to conception. It need hardly be said that A.I.H. is in no sense equivalent to the conjugal act: its use is solely for the purpose of initiating pregnancy when that is impossible by natural means. In considering its advantages and limitations, the importance of procreation as a primary purpose of marriage should always be borne in mind; and this requires to be emphasized when giving advice to a childless couple whose attention is focussed on the failure of coition. Some who at first are shocked by the A.I.H. procedure may find their aesthetic objections dissolving when a

pregnancy results from it. The physical, mental, and spiritual satisfactions of the mother, to which the father has contributed and in which he so deeply shares, prove of greater significance than the act of intercourse which, through no fault of their own, has been found impossible.

ARTIFICIAL INSEMINATION (DONOR)

In this country and, so far as we can discover, in America also knowledge of the effects of A.I.D. in the realm of psychology is still limited. No adequate research has yet been undertaken, and comments upon the psychological consequences of the practice of heterologous insemination must, therefore, be mainly speculative. They are not for that reason worthless. Three main considerations require analysis: the motives of husband and wife; the effect on the child; and the attitude of the donor.

From the information at our disposal the motives which impel a husband and wife to contemplate A.I.D. are, or appear to be, extremely simple: their common desire to have a child in the house, and the wife's desire to be a mother. They are motives which have, it seems, been thought sufficient by the doctors and donors concerned. Legal considerations do not appear to have received the close attention they deserve; yet there are good reasons why all concerned (including the doctor and donor) should be fully informed about them. It is possible that husband and wife, if acquainted with all the legal aspects and consequences of A.I.D., might decide against it; though that is by no means certain. The wife's desire for a child, and the husband's care for his wife, may provide a stronger motive than purely rational and legal considerations.

The evidence we have received suggests that most, if not all, of those who have used A.I.D. have done so only after careful deliberation. A couple must want a child very much indeed before they are likely to take this step. The evidence does not point to any immoderate insistence on the part of the wife. On the contrary, it is often the husband who takes the initiative; and the final decision is a mutual one.

The practice of mixing the semen of the husband with that of a donor is said, by those doctors who employ it, to have a psychological effect on the husband which is highly satisfactory. In addition to acquiescing in A.I.D., he has made a contribution.

The chance, however small, that he is the father will do something to foster his self-esteem and evoke a sense of responsibility for the child. We must record, however, that this procedure is not favoured by those doctors who gave evidence before us in support of A.I.D.; and this suggests that the benefits claimed for it have not in fact been established.

That husband and wife have been ignorant of possible psychological and legal consequences of A.I.D. which, if known, would have deterred them, does not affect the purity of their motives. If, however, they are later estranged, the fact that the child is a product of A.I.D. may widen the rift between them. Nevertheless, disputes and quarrels are not uncommon in ordinary married life where children are conceived in the normal way. It is impossible to anticipate all eventualities. Judgements must be made and decisions taken on the basis of current knowledge rather than of mere conjecture.

It is possible that those who proclaim the advantages of A.I.D. have paid disproportionate attention to the child in the cradle and the nursery. At this stage the benefits to both husband and wife will usually be manifest. As the child grows up, however, problems quite unforeseen by any of those concerned may well arise. He may display criminal tendencies, or some mental or physical defect; or he may become a genius. In the former case the father may wish to disclaim responsibility for the child's heredity; and in the latter his situation may be hardly less embarrassing.

A question of much importance, so far as the wife is concerned, is whether or no the desire for maternity which leads her to seek and accept insemination with the seed of a man not her husband must be judged to be pathological. No general conclusion is possible on this point. Much will depend on the degree to which she is really aware of the situation—how far she has pondered, and has accepted, the manifold implications of bearing another man's child. If she is able to think of the process as no more than a surgical procedure—a technical device to overcome infertility—she may escape the disturbing reflections likely to distress another woman. The possibility of discovering, when a child has been born by this means, that A.I.D. is in the eyes of the law adulterous and the child illegitimate, ought not to be overlooked. A growing sense of disloyalty and feelings of guilt and shame may in the end undo all the good that the child has brought into the

marriage. We have heard reports of such calamities. We do not suppose that they have been, or that they ever would be, common occurrences. But if they occur at all they point to the chance of similar results in other cases. It is increasingly plain that the traditions of moral law, in particular of fidelity, inherent in human beings are not to be overthrown without a severe upheaval, however rational the motives and plausible the arguments which appear to govern the act which overthrows them.

The attitude of the child and the effects of the peculiar set of relationships in which he or she is involved must at present be, in the main, a matter of conjecture. No systematic psychological and sociological survey of A.I.D. children has yet been made. In any case, children conceived as a result of A.I.D. and who have already attained to maturity, and whose study might therefore be expected to yield the most substantial results, are very few in number.

Speculation may in this case, however, rest on evidence collected as a result of enquiries into similar situations. The A.I.D. child, it may be inferred, has to face emotional difficulties analogous to those which confront the adopted boy or girl; and as with them, the degree of success with which he solves his problems will depend very largely upon the wisdom, tact, and sympathy shown by his "parents." The inequality of status as between "father" and mother will, in this case, add a further complication. If that inequality is fully accepted by them the effect on the child may be slight. If, on the other hand, it is resented—perhaps unconsciously—by the husband, that will disturb not only the peace of the marriage but also the child's sense of security. Children, as is well known, react to the real emotional relationship in which their parents stand, however that may be concealed or disguised; and frequently it is they who exhibit the symptoms which arise from their parents' neurosis.

Together with these similarities between the situation of the adopted child and that of the A.I.D. child, there is one major difference. It is nowadays assumed that the true relationship between the adopted child and his "parents" shall never be hidden from him, but will be taken for granted from the first and explained to him as need and occasion determine. With the A.I.D. child there are, in this respect, manifest difficulties. The necessary explanations might inflict severe psychological injury and increase

insecurity.⁵ Among adolescents who are both legitimate and born as a consequence of natural insemination there occur not infrequently phantasies rooted in doubt as to birth and parentage ("I am not my father's—or mother's—child"). This is especially true of large families, in which it is associated with jealousy of more privileged brothers and sisters. Such doubts and difficulties can be effectively disposed of by a true account of the facts—an account which, in at least a large proportion of cases of A.I.D., would on other grounds be withheld. So long as telling the child of his origin involves at the same time the announcement that he is illegitimate, that in itself must be a formidable deterrent. The alternative is to leave him still in perplexity and trouble. If the practice of A.I.D. were legalized this particular difficulty would, of course, be diminished, though not removed.

It may well be, and is indeed probable, that most of the children in existing A.I.D. families are still so young that these problems could hardly yet have arisen. It is therefore too soon to say how far they are inherent in the novel situation created by A.I.D., and for which no precedent exists, and how far they will prove to be merely hypothetical. Doctors who have observed the family life in which A.I.D. children are being brought up report that the husband and wife quickly appear to assume the rôles of normal parents and the episode of insemination soon becomes unimportant. When no legal or other complication arises, it is assumed that the child will not need to be told of his origin.

The attitude of the semen-donor appears in many cases to resemble that of the blood-donor. It is uncommon, at least in this country, for donors to receive payment; they view their donation as a service to those in need. It should be noted, however, that the authors of the article already referred to⁶ state explicitly that one of the greatest difficulties in the practice of A.I.D. arises from the fact that "to most balanced men the task of donation is unpleasant." When, as is usual, the semen is obtained by masturbation, the possibility of untoward psychological consequences arising from this cause alone must be reckoned with. A more subtle danger is that due to a spiritual pride disguised as altruistic idealism. The conscious or ostensible motive may be compassion for the sterile

⁵ cf. footnote 11 on p. 34.

⁶ Barton, M., Walker, K., and Wiesner, B. P., "Artificial Insemination," *Brit. Med. Jour.*, Jan 13, 1945, vol. I, p. 40.

couple, while other motives are present (although unrecognized), such as the desire for power and self-assertion, or the presumption that the donor possesses capacities of such outstanding quality that they ought to be propagated.

The inflationary phantasies which may in some cases prompt the rôle of donor may in turn be strengthened by it, and thus emphasize the neurotic elements in an already unstable personality. Difficulty in securing the type of donor best fitted for the purpose of A.I.D. must add to the risk that doctors may (if the practice becomes more extensive) be impelled to accept the services of men whose dispositions and mental endowment are other than they would choose. That is no more than a reasonable inference from the admitted reluctance of "most balanced men" to become donors, and the attraction which some "unbalanced" men may well find in a prospect of propagation unlimited by the responsibilities of normal parenthood.

The psychiatrist is primarily interested in the motives, attitudes, and experiences of those involved in the A.I.D. procedure—husband and wife, donor, doctor, and child. Legal and moral considerations concern him, *qua* psychiatrist, only in so far as they affect these individuals and condition their acts and responses. He will, however, take note of the social implications—e.g. the modification of the family unit effected by A.I.D., and society's reaction to this. If it were fully established and widely known that A.I.D. involved breaches both of morality and law, those collaborating in it would be influenced by this knowledge. The resulting states of mind, as indeed the views of all advocates and opponents of the practice, furnish material for psychological study. While, however, exact information on many aspects of A.I.D. is either scanty or lacking, it must be said that the psychological consequences are far from being established. Claims that A.I.D. results in nothing but good, or evil, must be received with caution, and admitted only when they are proved.

SOCIOLOGICAL AND EUGENIC IMPLICATIONS

Enquiry into the sociological effects of artificial insemination yields almost completely negative results. None of the societies or individuals concerned with either social biology or artificial insemination in Great Britain has any *data* to offer. On the one hand, the children affected are still young; on the other, the element of secrecy involved prohibits observation on scientific lines and the publication of findings.

In the United States of America, where the practice of artificial insemination is more widespread than in this country, the Russell-Sage Foundation has made various enquiries on our behalf, but with little positive result. The Secretary of the American Institute of Family Relations states that "nothing of any great value has been published on the sociological aspects of the subject." Dr. A. Stone, Editor of *Human Fertility*, also states that so far no sociological data on artificial insemination have been published. In the bibliography which he sent to the Secretary of our Commission, there is no reference to this aspect of the subject of artificial insemination.

During the past fifteen years, however, he has had considerable experience with artificial insemination in his own medical practice, and in nearly a hundred cases, he has so far not encountered any social objections or difficulties. In fact, he has had ten instances where couples who have borne children from a donor insemination have returned for further treatment at a later date when they wanted a second baby, and two couples returned for a third child.

In all instances that he has observed, the father has accepted the child as his own and as far as he knows, no parental objections or parental problems have arisen because of the method of reproduction.

Dr. R. L. Dickinson, Chairman of the National Committee on Maternal Health, New York Academy of Medicine, who in private practice over a number of years has dealt fairly frequently with artificial insemination cases, remarks that the only reliable method of obtaining sociological *data* with regard to the effects on the family would be through careful follow-up studies over a considerable period. Such studies have not been made primarily because information regarding the families to which such study would have to be directed is not available, the births being registered under the husband's name and not that of the donor

father. Dr. Dickinson adds: "The sterile husbands look upon these babies as their own quite naturally, and by the time the children are six months old the incident of artificial impregnation is entirely forgotten. It is, therefore, advantageous not to place emphasis on the latter through investigations or follow-up studies, but rather to allow normal family patterns and parent-child relationships to take their regular course." He would thus rule out the one method by which, as he himself testifies, it would be possible to assemble the *data* necessary for a sociological survey of the results of artificial insemination with donated semen. Another authority, Dr. Bernhard Joseph Stern, an eminent sociologist of Columbia University with contacts in the medical field, reports that he knows of no studies in the U.S.A. relating to the social effects of artificial insemination in the whole range of the literature on family life.

We shall hardly be expected to furnish what so many experts cannot—the detailed information apart from which no final sociological judgements on this matter can be made. Like all those to whom we have addressed enquiries, we are dependent partly upon conjecture as to what the principal social effects of A.I.D. (we are not here concerned with A.I.H.) are likely to be, and also upon the application, to this field, of established findings in others which we cannot doubt have a bearing upon the sociological issue.

Three questions at once suggest themselves. What would be the effect on the institution of marriage if the practice of artificial insemination (donor) came to be accepted as a normal procedure in cases of sterility which failed to respond to treatment? What would be the effect on the family in all its relationships and on the individual child most directly concerned? What would be the effect on the community most nearly related to the family, i.e. friends and relatives?

Partial and tentative answers to these questions may be framed by reference to the known effects of adoption, which has certain features in common with A.I.D. Also evidence to be found in other sections of this Report carries quite obvious sociological implications. The sociologist will note with interest, and probably with concern, the substitution (as an effect of A.I.D.) for the natural family—husband, wife, and the children begotten by them—of a group who are differently related. Similarly, the emotional insecurity which may, in certain cases, afflict the A.I.D. child, and the cross-currents of feeling which his presence in the

family may arouse⁷ are matters affecting the general good of society no less than the psychological health of a number of individuals. The concealment of the child's true parentage, the false registration demanded, and the atmosphere of secrecy that surrounds facts which, in the normal family, are joyfully acknowledged and made public, must have social as well as moral consequences tending to undermine the traditional status of the family group. The family which has, as a matter of history, been the basic unit of Western society, has suffered during the last two centuries and especially in our own time from numerous assaults from without and increasing stress within. Its economic unity is now largely disintegrated, its moral authority invaded, its cultural functions absorbed by other agencies. Outside the home members of the family are divided by the various occupational and social demands made upon each of them. What remains to unite them is something which cannot be destroyed by the changing patterns of society—their physical kinship. Because that is basic and secure, a wide diversity of taste, endowment, and propensity need not impair but may actually strengthen the bonds which hold the family together. Once the physical basis of these bonds is in doubt and the family's essential kinship called in question, there can be no certainty that the moral obligations erected upon it will survive unshaken.

The other main group of problems which would raise immense issues for society if artificial insemination should be more widely practised are those in the field of eugenics.⁸ Insemination with donated semen is employed in three classes of cases: where sterility in marriage is attributable to the infecundity of the husband; where the presence of genetically determined abnormalities in the husband, or in his family, makes it undesirable that he should become a parent; and where (though neither of the foregoing conditions may be present) the paternity of a man of conspicuous endowment is desired. This last case remains (so far as we know) hypothetical, though if the practice of A.I.D. were extended it might acquire great importance. It should be remembered that the effects of artificial insemination, where it is employed for eugenic ends, are the same whether the husband

⁷ cf. Chapter on Psychological Aspects, p. 20.

⁸ In this section of our Report we are largely indebted to Dr. C. P. Blacker, Secretary of the Eugenics Society, and to Mr. P. B. Medawar of the University Museum, Oxford.

is sterile or not; a wanted child of selected paternity is born to a married woman.

Some of those who are most expert in the science of eugenics deprecate the exaggerated claims made for A.I.D. and the supposed benefits it could confer on humankind. These claims are frequently supported by reference to the successful results obtained in the sphere of animal breeding, where controlled conditions favour precision of method and detailed observation of results such as could never be paralleled in the case of human families. How far the welfare of the human species, eugenically considered, may be capable of promotion by means of A.I.D. can only be determined by examination of the breeding scheme to which artificial insemination is no more than a technical adjunct. If the eugenic programme is based on genetic errors or faulty hypotheses, the employment of A.I.D. will merely expedite failure or disaster. If the breeding scheme is established upon sound (eugenic) principles and conducted by efficient methods, artificial insemination can facilitate it in various ways.

The limiting factor which governs the rate at which any such scheme can be executed is of course the gestation period of the female. Artificial insemination could hasten the *tempo* by reducing the reproduction-time to this minimum. Further, a genetic requirement of many breeding schemes is the mating of a single male with a large number of females; and artificial insemination can accelerate the pace and enlarge the scope of a programme which, if direct coition were employed, would be slow, on a smaller scale, and in some cases unworkable. The mating of a single male to large numbers of females would moreover enormously simplify the *interpretation* of the genetic results of the breeding plan, since, by using the semen of one individual only, there is held relatively constant what is otherwise one of two independent variables—the genetic constitutions of both male and female. The whole success of breeding schemes depends on correct interpretation of the genetic consequences; and anything which facilitates this is, from the eugenic point of view, of particular importance.

The question, how far such procedures should, or could, be applied to men and women and to the procreation of children will no doubt receive widely different answers.⁹ That the question is not purely academic is evidenced by proposals actually laid before

⁹ cf. that of Dr. Julian Huxley quoted on p. 8 *supra*.

the Military Affairs Committee of the House of Representatives of the U.S.A..¹⁰ "A super-race of test-tube babies will become the guardians of atom-bomb secrets if a proposal presented to-day to President Truman is passed into law. Fathers will be chosen by eugenic experts of all the United Nations. The mothers will be hand-picked on their health and beauty records, family background, and their achievements in school and university. The idea is to get the best possible brains in the world controlling future atomic power . . . It is proposed to rear hundreds of these test-tube babies. They would be reared by welfare specialists of the world"

Other possibilities in the field of eugenics are opened up by the use of artificial insemination—e.g. the genetical selection of spermatozoa. The problem of separating the male and female sex-determining sperms is, theoretically, a simple technical one. Its solution, by physical, chemical, or immunological means, would establish artificial control of the sex ratio. Whether or not such control is likely to benefit society at large, its possible eugenic consequences are obvious. In a single generation the balance of the sexes, only slightly affected by two world wars, might be completely overthrown. The impact of such a disturbance upon traditional patterns of behaviour and especially upon the institution of marriage may be easily imagined. Indeed, it is incredible that marriage as we know it could long survive in a society where for every adult male there were two or more adult females, or *vice versa*.

While genetic differences more subtle than those which govern sexuality are unlikely to be brought under control for many years to come, artificial insemination makes possible the physical or chemical treatment of sperms in order to induce genetic modification before they are used for fertilization (x-irradiation, for example, is known to cause gene mutation). The genetic outcome of such methods of treatment could never be discovered otherwise than empirically—that is, by trial and error. The scientist is naturally interested in the trial; but he no less than others should consider what may be entailed by the error.

Artificial insemination is, therefore, to be considered (from the strictly eugenic standpoint) an important, and in some fields an indispensable, adjunct to a breeding scheme. But it would be a mistake to attempt to appraise it apart from the scheme in which it

¹⁰ cf. *Sunday Despatch*, 21.10.45.

is to be used. If the scheme itself is a sound one—whether the criteria applied are moral, social or eugenic—artificial insemination can hasten its successful operation; if the scheme is faulty, artificial insemination can only serve to expedite its failure.

It has been seen that in both the strictly sociological and the eugenic fields of our enquiry the absence of scientific *data* of virtually every kind precludes all but the most tentative judgments. We believe, however, that the necessity for secrecy and indeed for deception about matters which should, no less in the general public interest than on precise eugenic grounds, be openly and truthfully recorded, cannot but be of sociological importance. It is obvious that, as artificial insemination becomes more widely practised under the conditions which now obtain, there is a corresponding devaluation, for eugenic purposes, of all registrations of births, which will, in proportion as A.I.D. is employed, be worthless as records of parentage. The increased likelihood of the marriage of half-brothers to half-sisters unknown to each other is certainly not to be ignored when the potential offspring of one donor is reckoned in thousands; and even where an arbitrary limit of one hundred children *per* donor has been imposed, the possibility of marriage between two of them is not very remote.

It is doubtful, however, whether the most potent effects, for society, of the practice of A.I.D. will be in the field of eugenics. More probably they will be those which result from a disregard of the law where it touches this question, and so of declining respect for legal requirements in general; from the psychological disturbance caused by the doubts, suspicions, and resentment which are likely to occur, if at all, only at an interval of perhaps some years after the child has been born; from the displacement of the traditional pattern of the family; and most of all, perhaps, from the depersonalising of the function of procreation which is inseparable from A.I.D.

It is said, by those who plead for artificial insemination, that these dislocations and disadvantages are either illusory, or exaggerated, or easily overcome. Yet we note in some of the arguments put forward in defence of the practice a greater anxiety about possible ill-effects than is strictly compatible with the assurance that they will never occur.¹¹ The insistence on secrecy is to

¹¹ cf. Dr. Mary Barton, who speaks of "the most appalling damage" that might be done to a child "by the discovery that his father was not, in fact, his father." *Artificial Human Insemination*, Report of a Conference (Heinemann) p. 45.

be pondered. If it is of such fundamental importance that certain facts shall be concealed, it is prudent (to say no more) to subject those facts to special and searching scrutiny. It is axiomatic for the champions of A.I.D. that secrecy shall be absolute and continuous;¹² and this, in a matter which touches the very springs of physical life, the family's pride in its stock, and the community's concern for its future genetic constitution, is contrary to the established and unvarying tradition of every known society.

¹² cf. Dr. Mary Barton, loc. cit. "If this is going to be done at all, I think the child should never know." The only exception to this rule would, apparently, be the case of the A.I.D. child, who, at maturity, supposes that a genetically determined abnormality in his 'father' is a bar to his own marriage. The proportion of all A.I.D. offspring which falls within this category is one of the matters about which reliable statistical evidence is, from many points of view, much to be desired.

THE LEGAL ASPECTS OF ARTIFICIAL INSEMINATION

by the Hon. Mr. Justice H. B. Vaisey, D.C.L.

*and the Right Hon. H. U. Willink, M.C., K.C.*¹³

1. The questions which arise have not—as is natural—been canvassed to any substantial extent in legal circles. They have not arisen in English courts of law, apart from an important dictum of Lord Dunedin quoted below. The matter was dealt with by the Ontario Supreme Court (also by way of dictum) in the case of *Orford v. Orford*, 1921, 58 D.L.R. 251 to which we will presently refer. There is also an important article by Mr. Sidney B. Schatkin, Assistant Corporation Counsel of the City of New York, which seems to us to be of value. It is clear that, particularly in the case of A.I.D., many difficult questions might arise, very likely to the dismay of those who had participated in the practice. The Note issued by the Medical Defence Union, Limited, is, in our view, superficial, and indeed grossly misleading.

2. A.I.H. (where impregnation by the semen of the husband is assisted by mechanical means) gives rise, provided that the free consent of both husband and wife is obtained, to religious, ethical, psychological, and sociological rather than to legal questions. We are, however, by no means convinced that there might not be ground for proceedings for a decree of nullity (even where there had been by this means issue of the marriage) if recourse had been had to A.I.H. with a total wilful exclusion of normal intercourse.

3. As the law now stands, subject to what we have to say later, and to some criminal liability which might be incurred on such a ground as conspiracy, we do not think that any special liability or responsibility, civil or criminal, would attach to a medical practitioner administering A.I.H. or A.I.D. There would be the usual duty to use professional skill and care. In A.I.D. he would be an accomplice in fornication or adultery. We should think, however, that even without any change in the law the profession might feel bound to formulate some new principles as to what is and what is not proper professional conduct in these matters.

¹³ The attribution of the authorship of this Chapter to the legal members of the Commission does not indicate any dissent from its general reasoning and conclusions on the part of the other members.

4. We entertain no doubt at all that the act both of a married "donor" and a married recipient constitutes adultery. In this connexion we may quote the following extract from the speech of Lord Dunedin in the case in the House of Lords of *Russell v. Russell*, 1924 A.C. 721:

"The appellant conceived and had a child without penetration having been effected by any man; she was fecundated *ab extra* The jury came to the conclusion that she had been fecundated *ab extra* by another man unknown, and fecundation *ab extra* is, I doubt not, adultery."

5. In the Canadian case of *Orford v. Orford* already mentioned a wife was suing her husband for alimony on the ground of cruelty, and attempted to account for the existence of a child of which he was admittedly not the father by alleging that she had without his knowledge submitted to artificial insemination, the semen being provided by another man. The court disbelieved her testimony, and found that the child's birth was due to adulterous sex relations with its actual father. But in view of the novelty of the case the court proceeded to state what its decision would have been on the assumption that the wife's story of her artificial impregnation was true, and held that if she had been artificially inseminated by another man without her husband's consent her conduct would in those circumstances also have constituted adultery. The following are relevant extracts from the judgement:

" the essence of the offence of adultery consists, not in the moral turpitude of the act of sexual intercourse, but in the voluntary surrender to another person of the reproductive powers or [sexual] faculties of the guilty person, and any submission of those powers [or faculties] to the service or enjoyment of any person other than the husband of the wife comes within the definition of 'adultery' it is not the moral turpitude that is involved but the invasion of the reproductive [or sexual] function Assuming the plaintiff's story to be true, what took place was the introduction into her body by unusual means of the seed of a man other than her husband. If it were necessary to do so, I would hold that that in itself was 'sexual intercourse.' It is conceivable that such an act performed upon a woman against her will might constitute rape."

It was further stated that an act of the kind suggested ought on the grounds of public policy to be declared to be adultery. The bracketed words in the foregoing extract do not appear in the report, but have been inserted by us as explanatory of what appears to us to be the plain intention and meaning of the judgement.

6. We would next refer, with approval, to Mr. Schatkin's article "Artificial Insemination and Illegitimacy," published originally in the *New York Law Journal*, Vol. 113, No. 148, 26th June, 1945, and reprinted in the issue for March, 1946, of a periodical printed for private circulation at Baltimore under the title of "Human Fertility." After stating the problem involved, and emphasizing its importance from the fact that by the year 1941 no less than 3,649 children had been born in the United States as a result of artificial insemination by a donor other than the mother's husband, the writer first points out that there can be no question of the legitimacy of the offspring created by A.I.H. He then refers to *Orford v. Orford* and to Lord Dunedin's speech in the Russell case, and concludes that if the wife submits to A.I.D. without her husband's knowledge or consent¹⁴ the offspring thus produced is illegitimate. He then deals with what he calls "the real field for the application of artificial insemination, viz., the wife's fertility, the husband's sterility, their mutual desire for a child, and the husband's consent to the procedure." The rest of Mr. Schatkin's article seems to us well worth verbatim quotation, as follows:

"The question of the legitimacy of a child born under such circumstances has never been judicially considered, but was the subject of an editorial in the *American Medical Association Journal* (6th May, 1939) which took the view that the child is illegitimate. No matter how much one may be inclined to confer legitimacy on such a child, the force of the following observation contained in the editorial cannot be disputed:

"The fact that conception is effected not by adultery or fornication, but by a method not involving sexual intercourse,

¹⁴ As pointed out later in the article, knowledge or consent are immaterial. It is well settled that adultery is none the less adultery if encouraged or connived at by the other spouse.

We note an apparent conflict between those who prescribe that "the donor should have at least two healthy children" (i.e. should presumably be a married man) and the description of the practice at the Johns Hopkins Medical School, where interns or young house officers are said to be used.

does not in principle seem to alter the concept of legitimacy. This concept seems to demand that the child be the actual offspring of the husband of the mother of the child . . . If the semen of some other male is utilised the resulting child would seem to be illegitimate. The fact that the husband has freely consented to the artificial insemination does not have a bearing on the question of the child's legitimacy. If it did, by similar reasoning it might be urged that the fact that a husband had consented to the commission of adultery by his wife would legitimatise the issue resulting from the adulterous connexion.'

"If we are to regard adultery in its essence as the surrender of the wife's reproductive powers to another man, then we may conclude that the husband has no greater moral right to consent to artificial insemination than to the commission of adultery by his wife. As pointed out in the above editorial, the husband's consent does not alter the fundamental conception of legitimacy, which requires that the child be the actual offspring of husband and wife. If that concept be violated, even with the best intentions, the resulting offspring is illegitimate."

7. In the same issue of "Human Fertility" Mr. Schatkin's article is adversely criticized by Dr. Guttmacher, who is Assistant Professor of Obstetrics at the Johns Hopkins University. His criticisms extend also to the reasoning of the Court in *Orford v. Orford*. To the "obstetrical mind," he says, such reasoning "sounds like so much balderdash." It is the intent which is all-important. Adultery and artificial insemination are actually, he says, the absolute antithesis of each other. One is done clandestinely to enjoy carnal pleasure; the other decently and frankly to beget offspring without the emotional and physical enjoyment of coitus. We think that Dr. Guttmacher is right in disputing the validity of the definition of the essence of adultery as being the surrender of the reproductive powers of the guilty party; for, as he points out, a wife who has undergone hysterectomy would then presumably be incapable of adultery. It seems to us that adultery involves the surrender *either* of the reproductive powers *or* of the organs of generation, whether capable of actual generation or not. In Mr. Schatkin's article the second alternative seems to be overlooked; in Dr. Guttmacher's the first is disregarded.

8. We think that the device of mixing the semen of the husband with that of a donor or donors would in no way affect the question of adultery. As regards the legitimacy of the resulting child, it would at the best place it in irresolvable doubt. A device of that deceptive character would in our view be most severely reprobated by English courts of law, and its use might well involve the participants in proceedings for conspiracy.

9. We have now to call attention to a matter of the utmost gravity. When the birth of a child is registered it is necessary to furnish the name of the father. It is clear that the registration of a child begotten by A.I.D. as the child of the husband would be a criminal offence under section 4 of the Perjury Act, 1911, for which a sentence of seven years penal servitude might be imposed. Now secrecy is said to be of the essence of A.I.D., and its avowed purpose is to introduce into the family and into the community a child which is represented to be and intended to be accepted as the offspring of the marriage, which it is not. We read with surprise in an article in the *British Medical Journal* (1945, i, 40) that "the couple are informed that the child will be legitimate if the husband is registered as the father; such registration is demanded (*sic*) although it constitutes an offence." Such an attitude to the criminal law of the land may be due to ignorance, but medical practitioners might well hesitate before taking upon themselves to "demand" the commission of an offence involving themselves as well as their patients in serious criminal liability. For the practitioner must be perfectly well aware that the couple to whom he gives his services are intending to make a false and fraudulent record of the resultant birth, and is in truth the instigator of and accessory to the crime.

10. The assurance suggested by the Medical Defence Union as proper to be obtained by the doctor—"that the birth of a child will not defeat the claims of any person to any titles, estates, interests or funds"—is one that could never be properly given or accepted. The offence indicated in the preceding paragraph is completely ignored, as is also the fact that accession to any property (e.g. on the death of the mother) would attract duty at a higher rate if the illegitimacy of the child were disclosed (as it ought to be) to the revenue authorities. At most the assurance would be to the effect that there is not *at the time* known to be any such title, estate, etc. There might be no fraudulent intent at the

time, but a situation not only might but almost certainly would arise at a later date in which the continued concealment of the child's actual origin would amount to a fraud. In our view, participation in the deception is nothing short of connivance at a fraud.

11. We find a strange inconsistency in the principle that married couples desirous of ostensible issue should be permitted by the law to achieve their object by the insemination of the wife *aliunde*, but not permitted to do so by the concealed introduction of a child begotten by the husband but born of a woman other than the wife, whether normally or artificially by means of his services as "donor." We cannot think that the advocates of A.I.D. would consider the latter expedient to be justified. To our minds it is no better and no worse than the other.

12. The unsuspected mating of children of a common father would be inevitable if the practice of A.I.D. were to become common. Besides such involuntary incest there would conversely be a fictional barrier to a marriage between a child of A.I.D. and the child of its nominal father by another woman.

13. (a) Problems of the gravest possible character would inevitably arise in the case of the insemination of unmarried women. The motive for requesting A.I.D. in those cases might be represented to be, and in many instances would really be, the comparatively innocent one of a desire for motherhood. It might on the other hand arise from a wish to deceive a man with whom the woman had had intercourse into a belief that she was pregnant by him. If such deceit resulted in his being induced to marry her the child would be treated (falsely) as his, even, in some cases, when born before the marriage, i.e. under the Legitimacy Act, 1926.

(b) Moreover, in the case of women who have no husband, if the anonymity of the donor is preserved, the consequences must be that children are born with no male parent to whom the mother and child can look for maintenance. Apart altogether from economic considerations, English Law is, and should be, concerned to a paramount degree with the welfare of children, and any practice which would enlarge the classes of children who have not two parents to look to is contrary to all modern trends. If the donor's identity could be discovered, he would be liable to maintain his offspring, however numerous, if the mothers were un-

married or living apart from their husbands. We think that donors should be made clearly aware of this liability, as well as being told that they become *ipso facto* adulterers.

14. Our whole social system, as well as our system of law, is based upon the principle that the individual is a member of a family. It presupposes the institution of monogamous marriage. The advocates of A.I.D. have, in our view, fallen into the error of regarding the matter as the concern of the husband and wife only. But the principle and presupposition to which we refer are also the concern of the ascendant and descendant and collateral relatives of the spouses, and indeed of the community as a whole. We think that a grandparent is entitled to know whether those who claim to be his or her grandchildren are so in fact or not, and the same applies to uncles, aunts, and cousins. It would change the whole basis of society if a man could not safely regard his brother's child as of the proper common stock of his and his brother's parents, and could not feel assured that it was not the product of an anonymous "donor." We can imagine few suspicions more fatal to family confidence than that of the intrusion of supposititious offspring into a family. Family pride and family tradition are qualities by no means confined to the propertied or moneyed classes. They would suffer a grievous blow if trickery and deception in regard to family relationship were to be encouraged or permitted.

15. The law of this country is not without powers of development, and has proved to be capable of dealing with novel situations. But in our opinion, this is not a matter in which the law ought to interfere otherwise than by prohibiting A.I.D. altogether. It is the function of the law to prevent, and not to facilitate, fraud and deception. It is generally assumed that secrecy is of the essence of A.I.D., and that as many persons as possible should be kept in ignorance of the facts. We are therefore of the opinion that anything on the lines of a register as for adoption is impracticable; we believe that in at least a large percentage of cases it would not be honestly used. The fact is that the practice rests on the false assumption that the wishes of the spouses are paramount. The welfare of the community is paramount, and the members of it have a plain and overriding duty to avoid dishonesty and falsehood.

16. In our view, the evils necessarily involved in A.I.D. are so grave that early consideration should be given to the framing of legislation to make the practice a criminal offence.

THEOLOGICAL STATEMENT

Christian moral theology is widely believed to concern itself only, or mainly, with the defence and interpretation of a code of behaviour, already defined at least in all chief particulars, though requiring to be applied in various and constantly changing situations. This is indeed one of its essential functions; but it is derived from another, antecedent to it, which is to establish the moral principles which must govern the conduct of those who profess themselves Christians. It presupposes the truth of Christian theology, and expounds the ethical consequences which follow from it. It deals, therefore, with the problems of human conduct as those are related to the true purpose of man's life.

The notion of Christian morality as a pursuit of ends, rather than mere conformity to a specified rule of conduct, is supported by the main stream of the Christian tradition. The two conceptions are not, of course, incompatible with each other; on the contrary, both are essential. To lay stress on the first is simply one way of affirming that in every situation demanding action, what should determine the nature of the action taken is reference to the purpose of human life: the true nature and destiny of men and women. "What am I? What am I for?" These are the ultimate questions affecting conduct—which could be defined as a choice of *means* to a chosen *end*. There is, of course, a multiplicity of *intermediate* ends, related to some immediate, particular action. To treat myopia, to enable a man to see better, so that he may do his work, in order to support his family, and fulfil his vocation as husband and father—these are simple examples. The test of the "rightness" or "wrongness" of each limited end or objective is whether or not it serves the final end. Thus the questions we have to ask about this or that procedure in artificial insemination are all concerned with the true ends of sexual activity, of marriage and family life.

Animals perpetuate their species through the operation of the sexual and parental instincts. Theirs appears an unreasoning motivation—unconsciously they obey the law of their nature. Man has the power, and the duty, to control and direct the behaviour prompted by his instinctive drives. The exercise of reason enables him to discover, and assent to, the law of his nature. By the proper use of his sexual function, man co-operates with God in the creation of other persons. The conditions which should govern this use are to be inferred in part from a consideration of

the purposes served by the sexual activity of man, but also from the nature of the sex act itself.

In what sense is man the master of his own body? It is the Christian Faith that man is God's creature. He is not, strictly speaking, an end in himself—though he is still less a means to the end of another. His end lies beyond himself in the glory of God. It follows that man has no absolute sovereignty over himself. He may not use his body, his talents, his powers, just as he pleases: they are to be used in accordance with God's will, made known to man in part by revelation, in part through apprehension, both intuitive and rational, of general moral principles, and in part from the internal structure and inherent purpose of that particular thing of which he has the use.

In the case of sexual activity, this internal structure and inherent purpose are pre-eminently clear. There is, first, an intricate natural mechanism for the conjunction of the organs and the transmission of semen, and its deposition where it can fertilize the ovum. The male and female organs, as well as the products of testes and ovaries, exist for and inherently tend to the creation of new life and the consequent preservation of the species. The physical mechanism is brought into play, and assisted, by an elaborate emotional accompaniment—the elements of mutual attraction, possession, surrender, and satisfaction which together make up the sentiment of sexual love between men and women. This also has as one of its purposes and explanations the act of copulation and the procreation of children. In that act, which they naturally subserve, these emotions find their satisfying expression; and to it, in turn, they add other significant ends.

The particular structure and natural function of the sex organs give, then, a clear indication of the manner in which the Creator intends them to be used. Man has no authority to employ them for any purposes other than those for which they manifestly exist. This may be illustrated by a reference to marital rights and duties. By the marriage contract, husband and wife grant reciprocal rights over each other's body; each pledges and concedes to the other the right to sexual intercourse. As a consequence, and as St. Paul (1 Cor. 7. 3, 4) clearly points out, the husband surrenders to the wife the authority and control over the use of his sexual powers, and the wife makes a corresponding surrender to the husband. This is not to say that either may claim the right to use the other's sex organs as he (or she) pleases. The proper use is defined both

by the nature of the organs themselves and by the ends for which marriage was ordained; and it is governed throughout by the partners' love for each other. The husband may not demand that his wife receive the seed of another man; nor may the wife demand that her husband authorize her reception of alien seed. By their mutual surrender to each other in the marriage contract, they set up an exclusive union and an exclusive mutual right. Neither has the power to introduce, into that union, any third party by such means as involve breach of that mutual right.

We have seen what light is thrown on the subject of our enquiry by a consideration of the sexual function *per se*. We turn now to that other main source of illumination, the ends or purposes which are served by marriage. They are, of course, three: procreation, union, and the "society, help, and comfort" which a man "ought to have" from his wife, and she from him. Which one, if any, of these is primary among them has been much debated. For the theologian, Catholic or Protestant, the unitive would seem to be paramount, if only because without it there can be no true marriage. On the negative side, a wilful refusal to consummate is recognized as a valid ground for a decree of nullity or divorce. Positively, the sanctification of husband and wife in the life of the "one flesh" is God's purpose for every marriage: a purpose which is always *in principle* capable of fulfilment, as other purposes may not be. Nevertheless, these others are not merely secondary or subsidiary to the first; they are normally included within, and powerfully assist it. The refusal of parenthood impairs the union as certainly as the withholding of "help and comfort" denies it. All three ends are closely related and mutually dependent. The attempt to pursue only one, or two, of them by deliberate exclusion of the third is to seek a relationship not properly that of marriage. That so many persons in our society make this attempt (albeit unconsciously) does not invalidate the Christian doctrine of marriage, though it goes far to explain the contemporary sexual disorder.

The first and second "causes" of marriage are, however, more directly linked to each other than is either of them to the third. Both involve, and require, the use of the sexual function as the other does not. The sex act serves a two-fold (not three-fold) purpose: first, the procreation of human beings; and second, the full expression and nourishing of the love of husband and wife. An act of intercourse which does not serve either purpose is clearly wrong; but manifestly there are few occasions in married life when,

at one and the same time, it is in fact serving both. The number of sexual acts which result in conception is a small proportion of them all; and which of them shall have that result cannot of course be determined in advance. On the one hand, conditions which favour conception may be known to be present. On the other, measures may be employed which are designed to prevent it. But in no case, without exception, is it possible to say prior to the occasion of intercourse: "This act will serve both of these ends." There are always in operation too many unknown or uncertain factors. It is therefore absurd to suggest that a sexual act within marriage which serves only one of these ends is, for that reason, wrong. In the nature of the case only one end can be served on the great majority of occasions.

The foregoing statement is simply one of fact; it ignores the question of intention. While all will concede that no married couple can ever say with assurance that any particular act of coitus shall in fact serve its procreative as well as its unitive end, some will deny them the right deliberately to separate these ends and pursue one of them alone. They are wrong (on this view) to use intercourse for the expression and enrichment of their love if, while doing so, they take steps to prevent conception. Yet even those who so judge will agree that there are times when coitus is legitimate although for some natural cause procreation is impossible—e.g. during pregnancy, and after the menopause, or while one or both of the parties are involuntarily sterile. So much of the total action as will serve the union of husband and wife remains to them, though some part of the process essential for procreation is defective or lacking. Nothing in the Christian tradition will prohibit the marriage act simply because one of its twin purposes cannot be fulfilled.

Artificial Insemination (Husband)

Between homologous and heterologous insemination there are evident and far-reaching moral distinctions. The first is no more than the attempt—by technical means appropriate for its purpose—to secure the fulfilment of one of those three "causes" for which matrimony was "ordained." There is no dispute about the desired end: it cannot in principle be other than legitimate and right for a married couple to seek to beget a child—assuming that there are no valid contraindications on eugenic or kindred grounds. But there are differences of opinion about the methods employed.

We cannot suppose that there is any moral objection to the procedure known as "assisted insemination"—the conveyance, by instruments, to the mouth of the uterus of semen ejected during intercourse, or the attempt at it. There are some devices, however, employed to obtain the semen (in particular *coitus interruptus*, and masturbation) which impair the natural unity of the sexual act, and which are, by some, for that reason deemed wrong. What should be—what essentially is—one integral action is artificially divided. The ejaculation of semen and its introduction into the vagina are in the natural process two sides of the same event; it is not thought permissible so to divide them that they become the separate acts of two persons.

In practice there are few cases in which, e.g., masturbation is resorted to where "assisted insemination" (described on p. 9) would not equally serve. However, there may be some—in which, if a wife is to be inseminated with her husband's semen, there exists no practicable alternative to masturbation. Many will hold that in this event, and as a last resource, masturbation may be legitimate. The act which produces the seminal fluid, being in this instance directed towards the completion (impossible without it) of the procreative end of the marriage, loses its character of self-abuse. It cannot, on this view, be the will of God that a husband and wife should remain childless merely because an act of this kind is required to promote conception.

Those who hold this opinion are the first to emphasize that artificial insemination, as between husband and wife, can be no kind of substitute for the sexual life of marriage. Wherever possible normal intercourse should continue. Where that cannot happen, on account of emotional maladjustment between the partners, it is at least doubtful whether resort to A.I.H. would, in every case, be justified. It is possible that impotence and vaginismus of psychological origin may sometimes operate as a natural obstacle to parenthood in those unfitted for it.

Artificial Insemination (Donor).

The insemination of a wife with donated semen raises questions of quite a different kind. The most fundamental of these is whether such a procedure is, of its nature, adultery. So far as the present law is concerned, there seems no doubt that it is—whatever the motives, circumstances, or consequences may be.¹⁵ That

¹⁵ See p. 37.

in itself is a highly significant fact. Were there no other moral issue at stake, this would be weighty enough. As a general principle, it is right to obey the law—especially in a matter so momentous for society as marriage must always be. Nevertheless it is not, taken by itself, finally conclusive. The law might conceivably be changed; and if it were so, this particular objection would forthwith fall to the ground. What must concern us, therefore, is the question whether or no the law, as it stands at present, truly reflects the Christian understanding of the marriage state and contract, and of what in principle constitutes breaches of them.

It has been argued that, from the Christian point of view, and setting aside the present legal position, A.I.D. does not constitute adultery but is, on the contrary, far removed from it. The essence of adultery (so this argument runs) is that it violates charity. This it does in three ways. (a) It injures the other partner of the marriage—as St. Paul affirms,¹⁶ it “defrauds” the consort. (b) It injures the family, inasmuch as it tends to disrupt it. (c) It injures society both by making family life insecure and by confusing inheritance. In what sense, if any, does artificial insemination with donated semen inflict these injuries on any of those concerned? Can it be said to wrong the husband, if it is undertaken with his consent, and expressly by his desire? There is evidence that, if successful, it may add to his happiness no less than to his wife’s. That so often he, and not she, is prime mover in the affair points to a fund of charity in him which deserves recognition. He may be mistaken, and his moral sense be at fault: even so, it cannot be doubted that, at least in a great many cases, it is precisely his love for his wife that prompts his action. In what way does A.I.D. disrupt the family? It appears as the only means (in the cases to which it applies) of creating a family—at least in the sense that it brings to a childless couple offspring otherwise denied them. Earlier in this Report we have referred to the evidence of those whose experience entitles them to speak, that the husband-wife relationship is often cemented and deepened when a child thus conceived is born. Whether A.I.D. is, or must always be, an offence against society is a question which cannot be answered apart from exhaustive enquiry into the various sanctions and safeguards which might be devised to control it. Most, if not all, of the legal objections would cease if the secrecy, and therefore the fraud, which are by current practice rendered inevitable, were

¹⁶ 1 Thess. 4. 6.

abandoned. And none of our social arrangements is (it may be) so Christian, or indeed so rational, that it could not be improved.

In one respect, at least, A.I.D. would appear to avoid the worst part of adultery—the personal betrayal of the spouse. *Ex hypothesi*, those who wish to make use of it have not entertained, or have rejected, the notion of taking a lover and conceiving a child by him. There is no question of that bodily surrender to another in the act of intercourse which effects and expresses a breach of the marriage vow. Whether the contract is broken by A.I.D. we have yet to consider: but that the *intention* to break it is absent seems to be clear. In addition, A.I.D. eliminates absolutely those features of sexual desire and sensual pleasure which are normally the dominant motives of adultery.

To these arguments there are added, by those who maintain them, two further considerations. First, it is evident that anything novel and unaccustomed, especially (it would seem) in the sexual sphere, gives rise to spontaneous repugnance and tends to provoke opposition which, though intense and sincere, is rather emotional than rational. Such feelings are certainly not without significance and are not to be ignored. Yet they are not in themselves a safe or sufficient guide in the search for ethical principles and their valid interpretation. Second, there is always the danger that, faced with a novel technique—the means to do something new—man may withdraw from the possibility not because the thing done would be wrong in itself, but because the doing of it requires more radical revision, more thoroughgoing reform, of his traditional pattern of thought and conventional conduct than he can brace himself to effect. That, in the recent past, the admission of new devices and the development of new powers have been conspicuous chiefly for the destruction wrought by them, should not blind us to the prejudice active in most minds against what is unfamiliar and untried. On the other hand, there is much in the temper of our times which assumes that what can be done, should be done; and impatiently brushes aside the warnings of those who would first examine the results, or the probable results, of the action proposed. This temper is itself a product of the contemporary trust in the unlimited power of science to cure all ills and solve all problems—the science which has become the symbol of the “almightiness” of man. Both these attitudes are likely, in varying measure, to affect our moral judgement in relation to A.I.D.

The Case Against A.I.D.

We turn now to study the case against A.I.D., so far as it rests upon moral considerations. The practice has been defended in part on the ground that, unlike adultery as generally understood, it precludes any sensual pleasure. But adultery is not wrong because people enjoy it. The enjoyment is sinful because the adultery is wrong. The action itself, not its accompanying pleasure, determines its moral quality. To hold otherwise is equivalent to asserting that drunkenness is wrong if a man enjoys getting drunk, but legitimate if the liquid by which he is intoxicated is either tasteless or nauseating. Fornication, adultery, and (ordinarily) masturbation are wrong because they are all disordered uses of the sex function: the function is ordered away from its proper end. Because these acts are thus wrong, and for that reason only, their pleasure is rendered immoral. If artificial insemination is wrong, the mere absence of sensual satisfactions cannot affect its wrongness.

The strongest plea put forward in defence of A.I.D. is the plight of those married women who long for children but whose husbands are sterile. Repeatedly it is said—by such women and on their behalf—that what they need and desire above all else is to have “a child of their own.” “Nothing else in the world will satisfy them.” We need not affirm once more the profound compassion which this frustration must evoke; but our concern at this point is to answer the question whether such a desire—one which impels a wife to become the mother of a child who is not her husband’s, but some other and unknown father’s—is in strict truth *inordinate*: one which exceeds the proper bounds of desire. There are some whose sexual impulses might be similarly described; but that is no defence in a court of law, nor, we suppose, in the eyes of the public at large. We are all, without distinction, required to restrain our desires, however imperious. On what rational ground is it urged that while *sexual* desires ought not to be indulged at will, *parental* desires may be? And are the results of indulgence in the latter case likely to be quite different, in their total effect on the personality, from those which are known to follow in the former? If we persuade ourselves that because we want a thing so much it must be right for us to have it, do we not thereby reject in principle, though perhaps unwittingly, the very idea of limitation, acceptance, of a given natural order and social frame—in a word, of the creatureliness of man?

The nature of the sex act itself and its proper setting in marriage together bear witness to the intensely personal character which belongs to procreation. The begetting of a child is a natural result of the desire on the part of his parents for union of a peculiarly close and intimate kind. A.I.D. eliminates the whole of this personal relationship. That it does so is held by some (as we have seen) to be a sufficient rebuttal of the argument that it is in itself adulterous. The suppression of the full personal character of sexual activity is a most significant and ominous feature of our time. Its effect is the prostitution, not of a class of women, but of womanhood itself—which is thenceforth valued less for personal than for explicitly sexual qualities. In all casual sex relationships the authentic *personal* encounter is greatly diminished in range and emptied of content—the essence of promiscuity is that neither partner cares who the other is, granted only the means of venereal pleasure. Objectively viewed, A.I.D. appears as the acme of this depersonalization of sex: it is in itself no more than a technical process—however momentous the consequences. It extracts procreation entirely from the nexus of human relationships, in or outside of marriage. The woman inseminated has no sort of contact with the man who fathers her child. A.I.H., even when it involves the same separation of acts, does not of necessity disturb the personal union of the partners. Their procreative activity is set in the frame of marriage, and it is as truly the fruit and expression of their love as if it required no artificial aid. It is surrounded and dominated by the mutual affection and hope of two people wholly committed to each other and sharing a common life. In every single respect, other than the technical, the difference between homologous and heterologous insemination appears to be fundamental. Between the husband and wife who resort to A.I.H. there exists (at least potentially) a range of personal intercourse, contact and union which are *ex hypothesi* ruled out in the case of A.I.D.

The effect of A.I.D. on the family is clearly of great importance. Reference has already been made to the argument that it cannot be said to injure the family, since it enables an otherwise sterile marriage to be fruitful of children—that is, it secures a family where (apart from its use) there would be none. Such statements seem to ignore the essential nature and structure of the family, which is the community of *parents and the children begotten by them*. For this natural pattern there is substituted (where A.I.D. is

successful) a group of persons differently related. To maintain that, because this so frequently happens as a result of illegitimacy and adoption, it should not be permitted to weigh against A.I.D., is to evade the issue. The adopted child may be brought up in ignorance of his parentage; he may even be represented to the world as the husband's and wife's "own" child. But the State insists that the true facts shall be recorded, and that anyone interested shall be able to learn what they are: that is the significance of the Adoption Register. As for illegitimacy, no one seriously maintains that it sets a precedent for proper and lawful behaviour. In both cases, knowledge of the facts is enough to dispose of the suggestion that the adopted, or the illegitimate, child is "a member of the family" in precisely the same sense as a child begotten by the husband and wife themselves. Such a child may be treated as well, may be loved as much, as one of their own; but that does not make him "their child" in the natural sense of the term. Indeed, we are accustomed to say of a certain person that "so-and-so has become one of the family" only when he is not so in fact.

The law requires, in all cases of adoption, that the facts shall be made known. Those who practise and plead for A.I.D. insist that concealment is necessary; and many of those who have resorted to it would almost certainly have been deterred by any threat of publicity. Secrecy is, at present, of the essence of the affair. But the secrecy leads to fraud. The legal aspects of this have already been studied.¹⁷ Even more is at stake, however, than legal rights, vital as these are. The psychological consequences of A.I.D. must at present be largely conjectural; but they cannot be unimportant; and they are likely to conform to the pattern of analogous situations—e.g. those which result from adoption—in which the unhappy results of misguided pretence and concealment are now well known. Doubt or ignorance as to one's parentage can give rise to acute distress. To resolve them, the most protracted and laborious enquiry, with the risk of embarrassment and shame, seems to be worth while. Of course, it is taken for granted by those who employ A.I.D. that, as a general rule, the children shall never be told of the mode of their conception. In certain cases, however—e.g., where a hereditary defect in the putative father is supposed by his "son" or "daughter" to be an obstacle to

¹⁷ See p. 36.

marriage—the truth will need to be told. Since the presence of such a defect in the husband is one of the two main reasons why artificial insemination is resorted to, it may be anticipated that the proportion of A.I.D. children who will learn, in their 'teens or twenties, that no one can tell them who or what is their father, is likely to be substantial. Moreover, the possibility cannot be excluded that an indiscreet comment, or chance observation, by one of the parties concerned may arouse curiosity, and apprehension, in the child. It has been disclosed that some married couples who have successfully resorted to A.I.D. have in their first enthusiasm revealed the fact to their friends. It is at least possible that some of the friends will remember what they were told longer than those who first told it them. Certainly in the heat of a quarrel between husband and wife, particularly one provoked by the child's behaviour, it is only too probable that the husband will allude to the child's origin—perhaps in the latter's presence. Similarly the mother may, in such circumstances, recall (and insist) that the child is *hers* in another and deeper sense than that in which he is her husband's. Anger may prompt her to say: "He's mine and not yours"—which, so far as concerns his begetting, is no more than the truth. Whatever the couple's intentions with regard to the secrecy enjoined on them, the secret may not be kept; and in that event the injury done to the offspring of A.I.D. may be grave.

Society at large, and all of its several members, have the right, universally conceded, to knowledge of each individual's identity. That, after all, is the significance of names. To confer on a child the name of a putative father, and allow him to grow up in ignorance of the real relationship between them, is—whatever the motives which prompt it—to be guilty of fraud. Those already persuaded that heterologous insemination is, on occasion, justified condone this offence, since the whole undertaking requires it. Yet some of them have asserted that the withholding of this knowledge, so vital in character, involving questions of kinship, inheritance, and actual identity, is a heavy responsibility and the least satisfactory feature of A.I.D.

Finally, there is the question whether artificial insemination with a donor's semen must necessarily constitute a breach of the nuptial contract, by violating the exclusive union of husband and wife which is the essence of marriage. The definition of adultery—*accessus ad alienum torum*—implies sexual intercourse between one

of the spouses and a third party. Where there is the giving and receiving of seed, there is an act of intercourse. For some this appears a conclusive argument: A.I.D. is for them, not only in the eyes of the law but for the common moral sense of mankind, an act of adultery. A woman who has willingly received the seed of a man not her husband has, whatever be her intentions or his desires, broken her vow to "keep herself only unto him so long as (they) both shall live." Those who maintain this position feel impelled to ask: Is it ever the will of God that children should be begotten, in our society, by two people who not only are not, but cannot be, married? And they answer: No.

A word must be added on the subject of the semen donor. We do not impugn the motives which prompt his action, though in some cases at least the investigation of them might lead to surprising results. A man who secretly cherishes absurd and inflated opinions of his own worth and ability may see in A.I.D. a unique opportunity to propagate these talents through a much wider circle of offspring than he could normally hope to father. He may thus—though unwittingly—feed his pride and indulge his desire for power while escaping responsibility for the care of his progeny. Men of this type are not the best natural fathers. The actual experience of parenthood may do much to humble and mature them: but (in A.I.D.) it is just this that is denied.

Still less can be said with certainty of the attitude of the donor's wife. We are assured that, in most cases at least, she fully supports her husband and approves the donation of his seed. Yet it must doubtless sometimes occur to her that he has fathered a number of children, mothered by other men's wives, who are half-brothers and half-sisters to her own. It is at least possible that some women will find such reflections disturbing.

CONCLUSIONS

We have asked of A.I.D. whether it may under any conditions fulfil the ends of marriage. That it cannot serve the procreative end appears obvious, for that (*ex hypothesi*) is already stultified. A.I.D. does not revive it: it substitutes for it something else altogether—the procreation of a wife and a man who is not her husband. The sexual relationship of marriage is not directly affected by A.I.D., though it may be by its results. Child-bearing may conceivably affect it physically, maternity psychologically. The “society, help, and comfort” which each owes the other does indeed seem to prosper where A.I.D. is successfully employed: we have reviewed the evidence for this and have found it impressive, so far as it goes. But it does not go very far. The majority of A.I.D. children are still young; and the domestic disharmonies which the presence of such children might occasion, or exacerbate, would not be likely to arise until later on. However that may be, there is need of more thorough investigation into the “histories” of these cases, if a firmer basis of judgement than probability or mere speculation is to be provided. Meanwhile, we may readily concede that, while subsequent jealousy or wounded pride or inferiority feelings may later threaten the marriage, of at least a great many couples the contrary is likely to be true. Suppose it was the case that A.I.D. could, in a particular instance, add to the personal harmony, and even the sexual satisfaction, of husband and wife—i.e., suppose two of the three ends of marriage served by its means: precisely the same might be said of adultery in the common sense of that term. It is conceivable, it has in fact happened, that a wife may learn from a lover what later makes for the sexual and personal enrichment of the marriage. Because under certain conditions such is the result of adultery, is it to be reckoned legitimate for any wife to take a lover, and any husband a mistress—provided that they do so with the hope and intention of learning what will afterwards contribute to their married life? There are doubtless some who are ready to plead for that; but they would hardly do so on the ground that Christian marriage was what they contended for, and wished to maintain.

The effect of A.I.D. on the institution of marriage and on family life is, if we judge correctly, of fundamental importance; the discussion of it has, therefore, occupied a large part of our Report. Other considerations, however, have much, if not equal, weight.

For example, we think that the public should know that A.I.D. children are in fact illegitimate, and that according to the present practice of some, at least, of the doctors concerned, the falsification of registers and of birth certificates is "demanded."¹⁸

We have been told by exponents of A.I.D. that its use is preventing the breakdown of marriages by alleviating the unhappiness of childless wives. We are not convinced by this reasoning. We do not underestimate the extent of frustration in childless marriages. But a large proportion of those whose marriages fail are fathers and mothers of children. The suggestion that many marriages can only be saved from shipwreck if by some means a child is begotten may well carry with it a threat to marriage greater than that of sterility. We have, moreover, pointed to possible dangers for the marriage relationship attendant on A.I.D. which, if they materialize, would lead towards, not away from, the Divorce Court. We offer what seems to us a more constructive suggestion. Much of the disappointment and misery that have followed marriage in the past might be avoided if men and women who contemplate getting married and desire to have children would adopt the practice, now increasingly common, of undergoing beforehand a thorough medical examination.

The prospect of wholesale adoption of A.I.D. especially by totalitarian states cannot be lightly dismissed. The effect upon human society if one donor were used for hundreds or even thousands of inseminations cannot be estimated. Even within the limited experience of practitioners in this country, it has been found difficult to secure enough suitable donors; and this situation is bound to increase the risk that one man will sire excessive numbers of children. Apart from the question whether any one human being is entitled to reproduction on this scale, the inter-marriage of children of the same father, which must be allowed for, and its quite unpredictable results, should give pause to those who favour this new technique.

In the end, however, the judgement we reach on the subject of A.I.D. will be shaped and determined by our view of the nature of marriage. If, with the Church, we hold it to be that exclusive contract and union "for better for worse," the total commitment till death of each spouse to the other, then the part of the unknown donor must seem an unlawful intrusion, and the part of the wife—however innocent she may be of evil intent or motive—a

¹⁸ cf. *supra* p. 40.

breach of her marriage vows. We are not remotely concerned to judge individuals, whether doctors, patients, or donors. In every single case of which we have knowledge, professional integrity on the one hand, and honest conviction on the other, were not in question. All parties to the transaction were, so far as we can tell, acting from motives which command our respect, and often our admiration. If we believe them to be mistaken, that is because we have found it impossible to reconcile with the practice of A.I.D. the doctrine of marriage which we have learned from the Church. We are sure that, no less than ourselves, those who commend that practice desire to see and to safeguard happy, successful marriages. We differ from them in our view of what marriage is: and the difference is fundamental.

FINDINGS

1. All the members of the Commission were agreed that:
When the procedure can properly be described as "assisted insemination" (i.e. as a sequel to normal intercourse, or the attempt at it, between husband and wife), it may be justified.

2. All but one¹⁹ of the members of the Commission were agreed that:

When "assisted insemination" is inapplicable, or ineffective, other methods of artificial insemination with the husband's semen may be employed. Even if, for the insemination of a wife with her husband's semen, there is no practicable alternative to masturbation by the husband, his act, being directed to the procreative end of the marriage, may be justifiable.

3. All but one²⁰ of the members of the Commission were agreed that:

Artificial insemination with donated semen involves a breach of the marriage. It violates the exclusive union set up between husband and wife. It defrauds the child begotten, and deceives both his putative kinsmen and society at large. For both donor and recipient the sexual act loses its personal character and becomes a mere transaction. For the child there must always be the risk of disclosure, deliberate or unintended, of the circumstances of his conception. We therefore judge artificial insemination with donated semen to be wrong in principle and contrary to Christian standards.

4. All but one²¹ of the members of the Commission were agreed that:

In our view, the evils necessarily involved in artificial insemination (donor) are so grave that early consideration should be given to the framing of legislation to make the practice a criminal offence.

¹⁹ R. C. Mortimer.

²⁰ W. R. Matthews.

²¹ W. R. Matthews.

NOTE BY THE DEAN OF ST. PAUL'S

I regret that I am unable to sign the Report and wish to give very briefly my reasons. Perhaps it will be well to state at the outset a practical conclusion in which I concur with the majority. The very able and lucid section of the Report contributed by our legal colleagues appears to me to show that A.I.D. is probably illegal and might have very serious consequences in the present state of the law. Since it is clear that a Christian has the duty to obey the law of the land, unless it enjoins him to do something which his conscience condemns, I should advise anyone who consulted me to refuse to take part in any capacity in A.I.D. on this ground. I suppose that there is some element of doubt concerning the actual legal position, for it would appear that the Medical Defence Union obtained legal advice and one imagines that Counsel would refuse to advise on the best way of safeguarding oneself from the consequences of performing what was recognized to be an illegal act. If, however, there is competent legal opinion which would disagree with that of Mr. Justice Vaisey and Mr. Willink, it has not been brought to our notice and I feel bound to accept their view. I may remark here on the proposal to prohibit A.I.D. by legislation. This suggests two criticisms, quite apart from the question whether A.I.D. in any circumstances must always be wrong. (a) If A.I.D. is now contrary to law any legislation may be unnecessary. (b) A law imposing penalties would be difficult to enforce. The technique of A.I.D. is very simple and I do not see how it could be effectively prohibited by law, unless the law had the cordial co-operation of the whole medical profession. There is reason to believe that this could not be obtained.

I wish to record, not violent disagreement with my colleagues, but a perplexity of mind which has not been cleared up by the evidence or the reasoning which I have heard. If I ventured to criticize the Commission, I should say that it has been, very naturally, too eager to reach final and absolute judgements on a matter which is as yet very imperfectly understood. I believe we should have done better if we had been content to state what we believe to be the proper attitude of Christians to A.I.D. in the present circumstances, while reserving the question of its absolute condemnation in all circumstances for further study. After all, one should be cautious in adding to the list of deadly sins.

My approach to the problem differs, I think, quite fundamentally from that of the majority of the Commission and,

therefore, I must take the liberty of explaining what it is. I begin, as I suppose all normal persons do, with a strong feeling of repugnance to the whole idea of A.I., and I find that this repugnance is almost as deep to A.I.H. as to A.I.D.. No doubt this might be attributed to the novelty of the idea, which cuts across deep-seated habits of thought and emotion, but I believe this explanation of our repugnance is too superficial. It arises perhaps from a very deep and important element of our nature, which is closely connected with our sense of personal dignity. A.I. separates the mechanical factor in procreation, not only from the personal, but from the organic life of the individual. This is most evident in the case of A.I.D., but it is present also in A.I.H. It tends to reduce life to mechanism and, it might be urged, in all its forms, if widely practised, would degrade our conception of personality. I think this line of thought is not merely fanciful and that a powerful argument against every kind of A.I. could be developed from it.

It does not seem, however, to be conclusive, for we have often to overcome instinctive repugnances for the sake of some higher good. If we allow that this may be the case here, we have to consider the problem from the standpoint of morality and social welfare. I may pass over the Psychological and Sociological sections of the Report very briefly, not because they are not of great interest, but because, as their learned authors admit, they are almost entirely conjectural. The plain fact is that nothing is known of the psychological effects of A.I.D. and I confess that some of the suggested possible ill-effects, particularly those attributed to Donors, seem to me unlikely—at least we have had no evidence that they actually occur. There is apparently no reason to suppose that the psychological difficulties arising from A.I.D. would be different in kind, or more acute, than those observed in adopted children. It is unnecessary to dwell upon the more imaginative flights of those sociologists who play with the possibilities of “breeding plans” for human beings accelerated by A.I., for they are impracticable in the present state of society and could only be carried out where the family had ceased to exist. I suppose that no Christian would consider such applications of A.I. as worth discussing. They would become urgent if a totalitarian state arose, on the Platonic model, which was dominated by Eugenists and in which Christians were a small minority. No one could deny that this is a possibility in the future and I agree that it would be

the duty of Christians to resist in the name of the dignity of the human person.

The real question at issue is whether A.I.D. can ever be morally justified, supposing that the legal consequences which, in present circumstances, may follow can be eliminated. If we are to condemn A.I.D. absolutely, we must hold that, under no conditions, could it ever be right. The argument in the section headed "Theological Statement" does not convince me. I disagree with the opening paragraph on Moral Theology. In my opinion Christian Ethics are prior to Christian Theology and, to some extent, independent of it. Theology has changed and is changing. It is the human formulation of revelation, but is not itself revealed. The Christian ethic of love, however, is eternal. I distrust also the method of deducing moral laws from theological premises. We should never forget that one of the duties which has been deduced from theology by most of the churches is that of intolerance and the persecution of heretics. I do not find that Jesus deduced his ethical teaching from a theological system. He based it on his belief in God as Father. The Christian ethic springs from the one central conviction that God is love. St. Paul has enunciated the only absolute Christian principle of conduct when he said, "Love worketh no ill to his neighbour, therefore love is the fulfilling of the law." Every "law," including the so-called "law of nature") has to be judged by the supreme law of love. The argument based on the "law of nature" on (p. 45) seems to be inadequately developed—at any rate I do not see where it leads us. The contention that organs are given us for a definite purpose, which is disclosed by their structure and their adaptation, might lead to conclusions the very opposite of those intended. A woman who has a healthy reproductive system but is married to an infertile man might plausibly argue, "This system is for the end of bearing children, but by chance my husband is unable to give me children; it is, therefore, not only my right but my duty to have children by another man, whether by natural intercourse or by A.I.D."

The lawyers have the right to define adultery in their own way, but I deprecate the adoption by Christian teachers of their materialistic conception. Only on a crassly materialistic hypothesis of the meaning of the words can A.I.D., when carried out at the request of the husband and with due precautions against injustice to others, be called adulterous. The spiritual elements which constitute the sin of adultery are absent. I have been interested to

notice that all the lay people to whom I have mentioned the fact that some theologians regard A.I.D., as defined above, as equivalent to adultery received the information with incredulity. The law of love is often thought to be too vague to form the basis for moral judgements. This, however, is not so. The principle of love requires that we shall seek the good of all beings who may be affected by our conduct. Thus adultery is condemned because it is a violation of a relation of trust between two persons, it hurts the children and injures society as a whole by causing many undesirable consequences, not least of which is the tendency to shake the stability of the institution of the family.

Since I am a Christian and not a Stoic, I feel bound to consider A.I.D. from the standpoint of the Christian ethic and not from the standpoint of a "law of nature," which, as Bishop Butler pointed out, may lend itself to many interpretations. In the case supposed (i.e. where the husband sincerely desires the operation and proper care is taken for the interests of others) the following considerations are relevant: (a) All the evidence points to the conclusion that the welfare of the woman is enhanced; the arguments on the other side are based, not on evidence, but conjecture. (b) The evidence supports the conclusion that the marriage itself is happier and the husband consequently benefits. (c) There is no evidence at all that the child is likely to suffer psychologically. (d) A real home which consists of parents and child is brought into existence. (e) The larger implications are not easy to assess. I do not know what consequences for society as a whole would result from any considerable resort to A.I.D., even in the carefully guarded form which we are discussing. No doubt, many children of high quality would be born, but the social inconveniences pointed out by the legal members may turn out to be insuperable. An additional one occurs to me, i.e. that, if secrecy is preserved, the data for the study of human heredity will be falsified. And finally, I recur to the thought with which I began. It may be that the employment of any mechanical aids to procreation strikes a blow at the integrity of the human personality and the intimate union of body, mind, and spirit, and, therefore, would have, in the long run, a disastrous effect on the health of society.

I will conclude with two general criticisms of the Theological section.

(a) It assumes a static view of nature and of man which was natural enough in the Middle Ages but perhaps is not so plausible now. It might have been written by men who had never heard of evolution.

(b) It takes a static view of society. It seems to be taken for granted that the form of the family must remain pretty much as it is. I believe that Jesus was critical of the family as it was in his life-time and held that it might be a hindrance to moral and spiritual progress. Though it seems clear that the family, in some form, is a vital part of human life and I cannot conceive its total abolition, there may be changes in its constitution, as there have been in the past. Christians ought not to identify their religion with things as they are, even in the case of the family. Like all human things, it will change. We need not be afraid, because we have in the Christian law of love the criterion by which to judge all changes whether or not they are in accordance with the mind of Christ.

W. R. MATTHEWS

APPENDIX

The following document has been specially prepared and issued by The Medical Defence Union for the guidance of medical practitioners. It is not intended to cover all the possible legal situations that can arise and was written solely with a view to the protection of the professional interests of practitioners engaging in this branch of medical practice.

THE MEDICO-LEGAL ASPECTS OF ARTIFICIAL INSEMINATION

This subject really falls into three classes:

- (1) Negligence;
- (2) Possible proceedings for dissolution of marriage; and
- (3) Alleged conspiracy.

In all cases, however, a request in writing should be obtained from the husband and the wife for artificial insemination to be carried out stating whether the husband will be the donor or whether semen will be obtained from an alien donor or from a "Bureau or Bank." The husband and wife should be over 21 years of age. The practitioner should explain to the husband and wife that a positive result could not be guaranteed. If an alien donor is to be used he should sign a consent to being associated with the procedure.

(1) *Negligence.* As the act of artificial insemination is a surgical or medical procedure the medical practitioner must, of course, exercise reasonable care and skill not only in the procedure itself but also, in the case of heterologous insemination, in the selection of the donor or of the source, in the case of a bureau or bank, from which the semen is to be obtained. In this respect it is suggested that the medical practitioner should observe the following precautions:

- (a) The donor should preferably not be a relative of either spouse.
- (b) The mental and physical history, personal and familial, and the health of the donor must be carefully investigated and should include such tests as a Wassermann, a complete blood count, compatible Rh factor and full general examination to eliminate T.B., diabetes, epilepsy, endocrine dysfunction, psychosis.

- (c) The fertility of the donor should be examined.
- (d) The donor should be of age and not more than 40 years.
- (e) The characteristics and race of the donor should be selected having regard to those of the husband.
- (f) Before using semen from a "Bureau or Bank" the medical practitioner should be satisfied as to the professional standing of and the methods employed at such "Bureau or Bank."

(2) *Possible proceedings for dissolution of marriage.* So far there has been no decision of our Courts to the effect that a wife artificially inseminated by means of an alien donor has been guilty of adultery or that such donor, if a married man, is guilty of adultery by thus supplying semen. However, during the course of his judgement in the House of Lords in the case of *Russell v. Russell*, Lord Finlay (sic)²² expressed the view "fecundation *ab extra* is adultery" which view, in fact, follows the finding of the Supreme Court of Ontario in 1921. This being so it would seem that the medical practitioner should do what he can to ensure that his patient and the donor by reason of this heterologous insemination are not involved in Divorce Proceedings and if so involved that there is a good defence to a charge of adultery. No one, of course, can prevent such a suit being brought but the chances of it being brought can be very much reduced and a complete answer provided if it can be established that both spouses fully understood what was being done and that this was, in fact, carried out at their joint request and, in the case of a married donor, if the written consent of his wife were obtained.

(3) *Alleged conspiracy.* In a very great number of cases the lawful progeny of married couples on the death of one of their parents stand to inherit either titles, estates or funds, and in default of there being such lawful progeny the titles, estates or funds pass to others. While children born in wedlock are treated *prima facie* as being legitimate, so far as we can ascertain the Courts have not as yet been called upon to decide the legitimacy of a child born in wedlock who is the product of heterologous insemination. Accordingly, it is possible that a medical practitioner

²² Lord Dunedin, cf. p. 37.

who had carried out such an insemination might be sued jointly with the husband and wife and possibly the donor for conspiracy to defeat the claims of those who would inherit in default of the husband and wife having legal issue. It is difficult to suggest any means which would provide a complete defence but the position of the medical practitioner would be largely safeguarded were he to obtain from the husband and wife an assurance in writing that the birth of a child by the wife would not defeat the claims of any persons contingently interested in default of their having issue.

It is desirable that this last statement and the request and statement referred to in the first paragraph, should be witnessed by some responsible impartial third person, in whose presence the medical man has explained what is involved and the reasons why the request and the statements are respectively required.

The Council has approved the following documents as suitable for completion (1) by the parties availing themselves of artificial insemination as a form of treatment for sterility or impotence on the part of the male, and (2) by the donor.

(1)

¹ Full name of husband. To Dr.

² Full name of wife. of

³ Full address. We¹

and² of³

being desirous of having a child and having been advised that it is impossible to achieve by normal sexual intercourse between us hereby request and authorize you to inseminate artificially² by means of semen supplied by a donor selected by you. We hereby assure you that the birth of such a child will not defeat the claims of any person to any titles, estates, interests or funds.

Dated this day of 19 .

Witness to the signature
of Mr. and Mrs.

Signature of Witnesses:

Address:

Occupation:

(2)

I, of
hereby consent to supply semen to Dr.

for the purpose of artificially inseminating a woman whose name has not been disclosed to me. It has been explained to me that the use of semen supplied by me for this purpose might be held to be adultery and I have accordingly only consented to supply semen on condition that (a) my name be not disclosed and (b) the written consent of the woman and the husband (if any) to the procedure be obtained.

Dated this day of 19 .

Witness:

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